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EXECUTIVE SUMMARY

On May 8, 1996, the United States House of Representatives voted to establish and fund the Select Subcommittee on the United States Role in Iranian Arms Transfers to Croatia and Bosnia (the "Select Subcommittee"). The Select Subcommittee was authorized to investigate and report on all aspects of United States government policy regarding shipments of arms and other assistance from Iran to the countries of the former Yugoslavia from September 21, 1991 until June 1996, the period in which an international arms embargo was in effect for the region. The scope of the investigation included the impact, if any, of such policy upon the safety and presence of United States troops stationed in and around Bosnia, the relations between the United States and its allies, and upon United States efforts to isolate Iran.

In addition, the Select Subcommittee was authorized to investigate and report on communications and representations to the people and the Congress of the United States regarding such policy, the international arms embargo and United States participation in the international arms embargo. Finally, the Select Subcommittee was authorized to determine what actions were taken to review any of these matters or, conversely, to cover up such matters. In order to report its findings, the Select Subcommittee was empowered to review all relevant deliberations, discussions, and/or communications within the United States Government as well as all communications between the United States Government and other governments, organizations, or individuals.

The following Minority Views to the report of the Select Subcommittee are based upon a thorough review of thousands of pages of classified and unclassified materials made available by the Departments of State and Defense (including the National Security Agency), the Central

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Intelligence Agency and the National Security Council as well as press reports, materials prepared by Congressional Research Service, and other material in the public domain. In addition, the staff of the Select Subcommittee interviewed and deposed approximately seventy current or former employees of these agencies as well as two foreign nationals. The Minority wishes to thank the individuals who were deposed and interviewed as well as the many employees of the United States Government agencies who spent countless hours identifying and making available relevant documents. In addition, the Minority wishes to thank the investigators detailed to the Select Subcommittee by the Federal Bureau of Investigation for their invaluable assistance.

Select Subcommittee Organization and Structure.

Legislative History.

On May 2, 1996, the Committee on International Relations (the "Committee") reported House Resolution 416 creating the Select Subcommittee of the Committee on International Relations to Investigate the United States Role in Iranian Arms Transfers to Bosnia and Croatia. The Committee also reported House Resolution 416 which, as amended, established a budget of $995,000 to be used either until the Select Subcommittee ceased to exist or immediately before noon on January 3, 1997, whichever first occurs.[1]

Legislative Mandate.

House Resolution 416 charged the Select Subcommittee with investigating the following:

[1]H. Res. 417, May 2, 1996.

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(1) The policy of the United States Government with respect to the transfer of arms and other assistance from Iran or any other country to countries or entities within the territory of the former Federal Republic of Yugoslavia (the "FRY") during any period that an international arms embargo of the former Yugoslavia was in effect.

(2) The nature and extent of the transfer of arms or other assistance from Iran or any other country to countries or entities within the territory of the FRY during the period that an international arms embargo was in effect.

(3) Any actions taken by the United States Government to facilitate or impede transfers described in the preceding paragraphs.

(4) Any communications or representations made to the Congress of the United States or the American people with respect to the matters described in the preceding paragraphs with respect to the international arms embargo of the FRY, or with respect to efforts to modify or terminate United States participation in that embargo.

(5) Any implication of the matters described in the first three paragraphs for the safety of United States Armed Forces deployed in and around Bosnia, for the prompt withdrawal of United States Armed Forces from Bosnia, for relations between the United States and its allies, and for United States efforts to isolate Iran.

(6) Any actions taken to review, analyze, or investigate any of the matters described in the preceding paragraphs, or to keep such matters from being revealed.

(7) All deliberations, discussions, or communications within the United States Government relating to matters described in the preceding paragraphs, and all communications between the United States Government (or any of its officers or employees) and other

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governments, organizations, or individuals relating to such matters.[2]

House Resolution 416 contains a sunset provision providing for the conclusion of the Select Subcommittee investigation and submission of its final report within six months of the passage of the resolution, or November 8, 1996.

Treatment of Confidential and Classified Information.

The Select Subcommittee investigation of United States policy and actions in the FRY includes fact-finding with respect to policy deliberations, intelligence gathering (including sources and methods), highly sensitive confidential communications between the United States Government and the governments of other nations, and equally privileged communications among United States Government officials. The Minority believes the utmost care must be taken to avoid disclosure of confidential communications between United States and foreign government officials, policy deliberations within the United States government involving senior officials in communication with the President, and the sources and methods of intelligence gathering. For this reason, the Minority has prepared this Executive Summary in a non-classified format which will be supplemented by extended Minority Views in a classified format. The Minority also has rejected the view, espoused by some, that disclosure of highly confidential or classified information in the media and/or in Congressional hearings places such information in the public domain. Advancing such a view provides leakers of sensitive and classified information with the key to unlock such information at their own discretion, and robs the United States Government of its legitimate interest in protecting such information. Notwithstanding the

[2]H. Res. 416, May 2, 1996, at 2-4.

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need to protect material which is deserving of protection. the Minority expects the United States Government to exercise the classified application only in cases where the laws and executive orders clearly apply and to refrain from keeping material classified which is merely embarrassing.

SUMMARY OF KEY FINDINGS AND CONCLUSIONS

The central issues of the Select Subcommittee investigation include whether the United States Government ordered, organized or otherwise encouraged Iran or any other country to ship arms to Bosnia; whether the United States Government provided a foothold for Iranian operations in Europe; whether the United States Government engaged in covert action without meeting the legal requirement to inform Congress; and how United States policy regarding the arms embargo affected United States relations with the NATO allies.

The consequences of United States policy are not in dispute. In 1994, Bosnia was embroiled in a brutal war that threatened to spill over to other parts of Europe. United States leadership helped bring an end to the fighting among the Bosnian Muslims, Croats and Serbs, to the rape and torture, to the mass executions, and to the sniper attacks on civilians; it has helped create the conditions to build a new Bosnian state, and stopped the war from spreading. In early 1994, hundreds of Iranians were present in Bosnia and Croatia. Today, the Iranian fighters have been forced out.

Based upon the Select Subcommittee investigation, the Minority finds that:

I. From the outset of the Clinton Administration, it was United States policy neither to oppose nor support third party arms transfers to Bosnia-Herzegovina. This policy was embodied in the "no instructions" response to the Croatian Government's question on the

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United States view on the transshipment of arms. It served several important United States interests, and helped establish conditions on the ground that pointed the way to peace.

- During the entire period in which the United Nations arms embargo against the former Yugoslavia was in effect (September 1991 to June 1996), United States policy was to refrain from supplying arms to any party in the former Yugoslavia.
- Pursuant to U.N. Security Council resolutions, the United States agreed in 1992 to participate with its allies in Operation Sharp Guard for the *primary* purpose of interdicting contraband destined for Serbia.
- Beginning in January 1993, following the inauguration of President Clinton, United States policy was neither to oppose nor support the shipment of arms to the Government of Bosnia-Herzegovina from other countries, including Iran.
- In November 1994, following enactment of the Nunn-Mitchell amendment, United States officials informed United States allies that the United States would participate in Operation Sharp Guard for the *sole* purpose of interdicting contraband destined for Serbia. In compliance with the Nunn-Mitchell amendment, the United States would take no action to interdict arms destined for Bosnia or Croatia.
- The "no instructions" policy served important United States interests: the outgunned Bosnian Muslims received arms that helped them survive until such time as the circumstances were ripe for a negotiated peace; the United States avoided a confrontation with NATO; the peacekeeping force and humanitarian aid workers remained in Bosnia; no United States ground troops were forced into a combat situation; and the conditions were established that paved the way to the Dayton Peace Accords in November 1995.

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II. Throughout the period of the United Nations arms embargo, Iran and other Islamic countries supplied arms to the Bosnians.

- During the entire period of the United Nations arms embargo against the former Yugoslavia, all parties to the conflict in Bosnia received arms shipments in violation of the embargo.
- During the entire period of the United Nations arms embargo, the Bosnian Serb military arsenal dwarfed that of the Bosnian Muslims and Croats.
- Beginning in 1991, several Islamic countries, including Iran, began supplying arms to the Bosnian Muslim forces.
- The supply of arms to the Bosnian Muslims declined from summer 1993 to spring 1994 due to the war between the Bosnian Muslims and the Bosnian Croat forces.
- The supply of arms to the Bosnian Muslims increased in spring 1994 due to the Federation Agreement to end the war between the Bosnian Muslim and Bosnian Croat forces, and the delivery of the "no instructions" response.
- The number of Iranians in Bosnia peaked before the spring of 1994, remained constant until the Dayton Peace Accords, and subsequently declined to the handful that is present today.

III. The United States took no action to aid arms transfers to the former Yugoslavia.

- At no time did any United States government official take any action to supply arms to any country or entity covered by the U.N. arms embargo.
- At no time did any United States government official undertake any covert action to supply arms to any country or entity covered by the embargo, or to encourage, aid or

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assist in the shipment or transfer of arms to any country in the former Yugoslavia.

- The proposal to expand the pipeline of arms destined for Bosnia through Croatia originated with Bosnian and Croatian Government officials in the wake of signing the Federation Agreement in March 1994.
- No United States Government official coordinated, cooperated, conspired with or suggested to the Bosnian Muslims, the Government of Croatia, or the Bosnian Croats that the United States be asked to state its view of the transshipment of arms.
- United States Government officials directed Ambassador to Croatia Peter Galbraith to respond that he had "no instructions" when asked for the reaction of the United States government to the transshipment of arms through Croatia to Bosnia by the government of Croatia.
- Ambassador Galbraith carried out his directions correctly and promptly.
- The "no instructions" response achieved United States objectives and was consistent with United States policy: the shipment of arms to Bosnia was not obstructed, the U.N. Security Council Resolution was not violated, and serious conflict with the allies was avoided.

IV. The United States Government did not engage in any covert action and was not legally required to inform Congress of its diplomatic exchanges with governments in the region. However, Congress should have been better informed about the "no instructions" exchange.

- Information about the shipment of arms by Iran and other Islamic countries through Croatia to Bosnia was made available to Members of Congress on dozens of occasions

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through press reports, intelligence reports, briefings, and in connection with staff and Congressional travel to Croatia.

- The Administration responded accurately to every question from Congress about the shipment of arms to Bosnia from Iran and did not set out to mislead Members of Congress.
- As a policy matter, however, the Administration chose not to inform Congress about the delivery of the "no instructions" response.[3]
- The "no instructions" response to the question posed by the Government of Croatia was a traditional diplomatic exchange.
- The Administration does not routinely disclose to Congress sensitive diplomatic exchanges between ambassadors and foreign governments.
- The failure of the Administration to inform Congress formally about the exchange among Ambassador Galbraith and Special Envoy Redman and a senior official of the Government of Croatia is not a violation of United States law.
- As a matter of policy, the Administration should have considered informing selected Members of Congress about the delivery of the "no instructions" response.

V. The impact of the Iranian arms shipments on the security of United States military and civilian personnel was minimal.

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[3] The Select Subcommittee was told by one former Member of Congress that he was informed about the "no instructions" response at a routine intelligence briefing. It appears that the briefer was acting independently. The relevant intelligence agency has no record that such a briefing occurred. Senior Administration policy makers were not aware of this particular briefing or that information regarding the "no instructions" response had been shared with any Member of Congress.

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- Any threat to United States military and civilian personnel in the region arose from the presence of Iranians and not the shipment of arms, and Iranians had been present in Bosnia since 1991.
- The United States did not commit ground forces to Bosnia in any significant numbers until after the Dayton Peace Agreement was signed in November 1995.
- The Dayton Peace Agreement required the removal of all foreign forces from Bosnia, including organizations and individuals associated with Iran and other terrorist states, and made the United States commitment to "equip and train" the Bosnians conditional upon compliance with the "foreign force removal" requirement.
- The President has certified that Bosnia is in compliance with this requirement, and that Iranian and other foreign forces are present in insignificant numbers only.
- The United States continues to pursue all other avenues to isolate Iran from the world community.
- With respect to the safety of United States military and civilian personnel in Croatia during the period in which the arms embargo was in effect, the United States and Embassy Zagreb maintained a high degree of awareness of terrorist threats through regular Emergency Action Committee ("EAC") meetings, demarches to the Government of Croatia to expel terrorists and otherwise assure the safety of United States personnel, and intense monitoring of possible terrorist activity.

VI. The impact of the Iranian arms shipments on United States-Allied Relations

- United States allies were aware that the United States had been looking the other way regarding arms shipments from third countries to Bosnia; therefore, the "no instructions"

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response was a continuation of policies that already were tolerated.

- The allies were particularly concerned that heavy weapons and artillery not be transferred to Bosnia and the United States Government was confident that Croatia would not permit heavy weapons to be transshipped.
- United States, NATO, and other allied forces are serving side by side in IFOR and working together to implement the civilian aspects of the Dayton Accords.

VII. The Executive Branch has acted properly in reviewing actions by United States officials and in responding to inquiries from Congress concerning the arms transfers.

- At the request of the White House Counsel, the Intelligence Oversight Board (the "IOB") investigated concerns raised by the Central Intelligence Agency about possible covert action and reported to the President that no United States official had participated in covert action.
- The IOB cooperated with the Select Subcommittee, consistent with the privileged nature of its investigation.
- The National Security Council, the Departments of State and Defense (including the National Security Agency), and the Central Intelligence Agency cooperated with the Select Subcommittee, consistent with the need to protect privileged information.
- No attempt has been made by any official of the United States Government to conceal any information that would be relevant to the investigation.

VIII. Lapses in communication and coordination among United States government officials in Zagreb and Washington led to confusion and erroneous impressions about United States

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policy among some United States government officials.

- The "no instructions" response to a senior Croatian Government official was deliberated and formulated by the senior policy makers of the Department of State and the National Security Council over a seventy-two hour period during which direct communications occurred among the President; the Secretary of State, the Deputy Secretary of State and the Undersecretary of State; the National Security Adviser and the Deputy National Security Adviser; and the United States Special Envoy to the Former Yugoslavia and the United States Ambassador to Croatia on the ground in Zagreb.
- The "no instructions" response as well as the report confirming its delivery was conveyed orally in order to keep to an absolute minimum the number of people with knowledge of the response.
- All government-to-government communications between the United States Government and the Government of Croatia were carried out correctly.
- Miscommunication between an intelligence community representative (an "ICR") in Croatia and [redacted] headquarters led to inaccurate conclusions about the actions of the United States policy makers and to unfounded suspicions.
- Incorrect legal advice provided by [redacted] headquarters to an ICR in Croatia caused an ICR to form inaccurate legal conclusions about the actions of United States policy makers.
- Inadequate supervision and guidance of an ICR in Croatia by [redacted] headquarters led to the reporting of speculation and gossip in lieu of intelligence.
- The CIA was informed contemporaneously about United States policy with regard to the arms embargo and the "no instructions" response.
- Communications between the senior officials of the Department of State and the Central

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Intelligence Agency concerning the United States policy with regard to the arms embargo lapsed in April/May 1994 and September/October 1994.

- Senior officials in the Department of State and the National Security Council were not aware that certain officials within the Central Intelligence Agency had an imperfect understanding of United States policy with regard to the arms embargo.
- Discussions of options for providing arms to the Bosnian Muslims was an appropriate and responsible course of action by officials of the United States Government.
- The United States Government considered and rejected the option of asking third countries to supply arms to the Bosnian Muslims on the grounds that it would be discovered by our NATO allies and could trigger a negative response including the withdrawal of the United Nations Protections Force (the "UNPROFOR"), and the commitment of United States troops to a combat situation.

SUMMARY OF THE INVESTIGATION

The Situation on the Ground in the Spring of 1994.

Iranians and other nationals from Islamic countries have been present in Bosnia since at least 1991, providing military and intelligence training as well as armed support. During the same period of time, shipments of light arms also reached Bosnia from Iran and other Islamic countries.

The humanitarian, political and military circumstances facing the Government of Bosnia-Herzegovina (hereinafter "Bosnia" or the "Bosnian government") and its citizens in the spring of 1994 were dire, especially in the war against the Bosnian Serbs. The enclave of Gorazde was under siege. The capital of Sarajevo was entirely surrounded by hostile Bosnian Serb forces that

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regularly subjected the residents to sniper attacks, cut such city services as electricity and other utilities, and commandeered humanitarian relief shipments intended for the starving population.

For the preceding twelve months, the Bosnian Muslims had been in a state of war with the Bosnian Croats. Since Bosnia-Herzegovina is accessible only by air or by overland routes through Serbian or Croatian controlled territory, the war with the Bosnian Croats who were supported by their Croat brothers in Zagreb made it difficult for the Bosnian Muslims to obtain either humanitarian assistance or military shipments.

On March 22, 1994, Bosnian Muslims and Croats signed the United States-brokered Federation Agreement. The Federation Agreement had political, military and humanitarian significance. The Agreement established the peace between the Bosnian Muslims and the Bosnian Croats that was the necessary first step toward a more comprehensive settlement; freed the Muslim and Croat armed forces to direct their attention toward the Bosnian Serbs; and substantially reduced the potential of further human rights violations by the Bosnian Croats and Croatians against the Bosnian Muslims. Perhaps most important, the March 1994 Federation Agreement provided the potential for changing the military and political situation in Bosnia by creating a unified military front against the aggression of the Bosnian Serbs.

The International Political Situation in the Spring of 1994.

United Nations Security Council Resolution 713 of September 1991 imposed a legal obligation upon each member nation of the U.N. to respect the arms embargo against the countries of the FRY. By contrast, subsequent U.N. Security Council resolutions that addressed enforcement of the arms embargo (Resolutions 740 and 787) "called upon" each member nation to enforce the arms embargo against other nations, but did not impose a legal obligation to do so.

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The United States allies opposed a multilateral lifting of the arms embargo against the Bosnian Muslims and, through political statements as well as through diplomatic and military channels, informed the United States that a unilateral lifting of the embargo by the United States would cause the withdrawal of European ground forces participating in UNPROFOR.

The arms embargo was not seamless. Throughout the war, arms reached all three combatants. The level of arms shipped to Serbia together with those already in the Serb inventory dwarfed the arms shipped to Croatia and the Bosnian Muslims, both of which had no meaningful armed forces prior to the war. The level of arms shipments to the Bosnian Muslims from 1992 through spring 1994 was tolerated by many of the participants in UNPROFOR and at least some nations that subsequently became members of the Contact Group.

The United States Policy in the Spring of 1994.

The United States Government policy toward the conflict in the former Yugoslavia changed in January 1993 with the inauguration of the Clinton Administration. In contrast to the previous Administration, the Clinton Administration supported the multilateral lifting of the arms embargo against the Bosnian Muslims in combination with allied air strikes against the Bosnian Serbs (the so-called "lift and strike" policy).

However, the United States Government also was committed to actions and policies that reduced to a minimum the potential for a withdrawal of UNPROFOR from Bosnia. A withdrawal would have exposed the Bosnian Muslim military and civilian population to a greater risk of death and destruction, created a humanitarian and military vacuum which United States troops might have been forced to fill, and precipitated a commitment of United States troops to Bosnia to help extract the troops of the NATO allies serving with UNPROFOR. To this end, the

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United States Government participated in Operation Sharp Guard and abided by the arms embargo. In contrast to the previous Administration, the United States neither objected to nor endorsed arms shipments to Bosnia.

The United States Congress began an extended debate that intensified in the spring of 1994 on ways to help the Bosnian Muslims survive. Members of Congress knew the likelihood of a multilateral lifting of the embargo was slim. Therefore, the central issue in the debate was whether the United States should lift the arms embargo against the Bosnian Muslims unilaterally.

The Events of March and April 1994.

The Federation Agreement led the Bosnian Muslims to hope that given the new peace with the Bosnian Croats, they could convince the Croatians to permit the transshipment of greater quantities of desperately needed arms through Croatia to Bosnia. The Administration and the United States Government were committed to providing military assistance to the Bosnian Muslims in the event that the arms embargo was lifted multilaterally. Many Members of Congress thought the need to save the Bosnian Muslims was so critical that it outweighed any tensions with the allies.

In mid-April 1994, various senior officials of the Government of Croatia indicated to United States Government officials at Embassy Zagreb that the United States would be asked about the United States Government position on the transshipment of arms across Croatian-held territory to the Bosnian Muslims. The question was prompted by the efforts of the Bosnian Muslims to take advantage of the Federation Agreement which the Bosnian Muslims expected would make the Government of Croatia and the Bosnian Croats more willing to let arms reach the Bosnian Muslims.

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The April 28 and 29 Meetings.

The question posed by the Government of Croatia to Ambassador Galbraith was what the reaction of the United States Government would be if the Croatian government allowed arms to be transshipped to Bosnia. The response was formulated by the senior policy makers of the State Department and the National Security Council over a seventy-two hour period during which direct communications occurred among the President, Deputy Secretary of State Talbott and National Security Advisor Lake who were en route to California aboard Air Force One to attend the funeral of former President Nixon; Secretary of State Christopher who was in Egypt for meetings with President Mubarak; Undersecretary of State Tarnoff who was serving as Acting Secretary in the absence of the Secretary and Deputy Secretary; and Deputy National Security Adviser Berger who was in Washington.

The options for responding included telling the Government of Croatia that the United States would not object to shipments by third countries, that the United States disapproved of the transshipment of arms through Croatia and would enforce the United Nations arms embargo against third countries strenuously, or telling the Government of Croatia that the United States Ambassador to Croatia had "no instructions." The first alternative would risk unduly United States relations with its allies. NATO members with troops serving with UNPROFOR adamantly opposed a lifting of the embargo as well as any United States role in ensuring that arms reached Bosnia. Any hint of United States approval of arms shipments might threaten an UNPROFOR withdrawal.

The second alternative meant that the United States was taking an active step to deny weapons to the beleaguered Bosnians. It also would undermine and perhaps destroy the

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Federation Agreement. In selecting the third alternative, the policy makers were informed fully of the likelihood that the "no instructions" response would be treated by the Government of Croatia as a signal that the United States did not object to the arms transshipment, and that Iran was likely to be one of the primary arms suppliers. The policy makers also believed that the "no instructions" response to the Government of Croatia was a traditional diplomatic exchange with respect to which no Presidential finding was required.

The "no instructions" response represented a continuation of United States policy in effect since early 1993 to refrain from objecting to arms transshipments to Bosnia. For example, in April 1993, the Croatian Defense Minister asked United States Special Envoy to the Former Yugoslavia Reginald Bartholomew for the United States reaction to transshipments of arms (the identical question asked of United States Ambassador Galbraith one year later). Special Envoy Bartholomew responded that it was a decision for Croatians to make, and the United States had no position on the transshipment of arms.

The Actions of the United States Ambassador to Croatia with respect to Senior Government of Croatia Officials.

Ambassador Galbraith correctly carried out the direction he received from senior State Department and National Security Council staff with respect to the question posed by the senior official of the Government of Croatia. Prior to delivering the message, Ambassador Galbraith thoroughly and accurately briefed senior State Department and National Security Council officials on the benefits and risks of the various options available for responding to the question posed by the senior official of the Government of Croatia.

Ambassador Galbraith acted appropriately in offering his recommendation of the correct response, but did not let his personal view undermine a fair and objective rendering of the

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benefits and risks of the various options available for responding to the question posed by the senior official of the Government of Croatia. At no time, either before communicating the question to senior State Department and National Security Council officials, or after transmitting the response to the senior official of the Government of Croatia did the Ambassador either exceed his directions or act inconsistently with the obligations of the United States under the U.N. Security Council Resolutions.

The Summer of 1994.

Beginning in May 1994 and continuing throughout the summer of 1994, the shipment of arms from primarily Islamic countries across Croatian-held territory to the Bosnian Muslims increased. Media reports and United States intelligence reporting revealed the extent and nature of the arms shipments as well as the sources of the arms. The shipments consisted solely of light arms and at no time included heavy weapons or artillery.

The allies were aware of the arms shipments, but issued no demarches or other formal protests to the Croatian government, the United States government, or the governments supplying weapons to Bosnia. The acquiescence of the allies was due in part to the fact that the shipments of light weapons did not constitute a serious threat to the allied troops serving in UNPROFOR. The British indicated that shipments of heavy weapons would cause serious concern because they posed a risk to British troops. United States policy makers were aware that Croatia effectively controlled the type, quantity and quality of the weapons that would be allowed to reach Bosnia, and that Croatia was unlikely to allow the transshipment of heavy weapons that could be used against Croatian forces.

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The Fall of 1994.

In September 1994, senior officials of the Government of Bosnia-Herzegovina approached senior officials of the United States government with a proposal to impose a six month moratorium on efforts to lift the embargo against Bosnia. The Bosnians proposed, in return, that the United States Government provide or arrange to provide military assistance during the six month period. The Bosnians also sought a commitment from the United States to lift the embargo at the end of the six month period if the political and military situation in Bosnia was not stabilized. The United States Government flatly rejected providing arms directly and, after considering the second alternative, decided the United States would not encourage others to provide arms to the Bosnian Muslims. This position was not altered in subsequent months.

United States Government officials did undertake a military, political and intelligence analysis involving the Departments of Defense and State, the Central Intelligence Agency, and the National Security Council to evaluate whether third countries should be encouraged on a secret and confidential basis to transship arms through Croatian-held territory to the Bosnian Muslims. The study involved consultation at a senior level with officials of selected third countries.

The participants in the study concluded that the United States should not encourage third countries to supply arms to the Bosnians. Such an effort could not be kept secret for any significant length of time because the transshipment of arms through Croatian-held territory would have been discovered by UNPROFOR troops and allied intelligence. The allies would consider United States encouragement of third countries to transship arms through Croatian-held territory an affirmative action by the United States Government to break the spirit and letter of the arms embargo. Even more important, a United States effort to encourage transshipment

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would be considered by the allies to pose an unacceptable threat to the safety of allied forces on the ground.

Communications between Ambassador Galbraith and an Intelligence Community Representative Prior to April 28, 1994.

In early December 1993, an Intelligence Community Representative (an "ICR") in Croatia informed [redacted] headquarters that Ambassador Galbraith asked about a covert action. The ICR speculated that the inquiry was motivated by the Ambassador's personal support for the Muslims, and predicted that the Ambassador would propose a covert action program to Washington policy makers. The ICR told the Ambassador that no covert action was underway.

In mid-April 1994, an ICR in Croatia informed [redacted] that approximately five weeks earlier (*i.e.*, mid-March), Ambassador Galbraith raised the possibility of the United States informing the Government of Croatia that the United States would look the other way with respect to arms transshipments across Croatian-held territory and the further possibility of Iran serving as the arms supplier and Turkey as the "go-between." The ICR also informed [redacted] headquarters that Ambassador Galbraith said he would raise the possibility with senior policy makers in Washington.

An ICR in Croatia responded to Ambassador Galbraith that such activity would violate United States law, provide Iran with a firmer foothold in the region, not be sustainable nor deniable, become apparent, be treated as a hostile act by Serbia, encourage Croatian military aspirations, and put United States intelligence assets at risk. The ICR also characterized such activity as a covert action. In mid-April 1994, an ICR informed [redacted] headquarters that, according to the Deputy Chief of Mission (the "DCM"), Special Envoy Charles Redman was

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considering the idea of a covert action along the lines of actions undertaken in Afghanistan.

The accuracy of the reporting on the mid-March conversation by an ICR in Croatia is in doubt due to the non-contemporaneous nature of the reporting, the fact that Ambassador Galbraith denies the conversation took place, and the fact that no senior policy maker in Washington ever was approached by the Ambassador. The accuracy of the information alluded to by an ICR with respect to Special Envoy Redman is in doubt due to the fact that the United States Special Envoy denies ever entertaining such thoughts (let alone expressing them), and the DCM denies ever making such remarks to the ICR.

The Lines of Communication between an ICR and

To a significant extent, the strain in the working relationship between Ambassador Galbraith and an ICR in Croatia was the result of inadequate communication between an ICR and the The ICR executed the directions received from the during the period between mid-March and mid-November 1994, but the directions often were incorrect or uninformed.

In April 1994, an ICR in Croatia was informed by personnel responsible for Croatia that the proposed action regarding the transshipment of arms described by Ambassador Galbraith in mid-March would, if implemented, constitute a covert action for which a Presidential finding is required. The legal advice given to an ICR was not correct and was rendered without consulting an attorney. Throughout May 1994, an ICR sought-- at times in near desperation-- guidance from headquarters about the United States policy toward enforcing the arms embargo. The desperation felt by an ICR was due to concern about risking intelligence assets in the collection of information about arms shipments if enforcement of the embargo was not a United States priority.

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As a result of receiving incorrect legal advice, an ICR in Croatia remained deeply concerned from early May until mid-November that the United States Government was engaged in illegal covert activity. The concerns of the ICR caused wholly unfounded suspicions to form about the conduct of Ambassador Galbraith as well as the conduct of other senior United States Government officials involved in policy making in the region.

In April 1994, an ICR in Croatia was informed by [redacted] headquarters that a request made by Ambassador Galbraith to use intelligence channels to communicate policy represented a serious and substantial misuse of intelligence channels. The ICR was never informed that the Director of Central Intelligence, James Woolsey (the "DCI"), did not consider the request to be inappropriate. The failure to inform the ICR that the request was not inappropriate caused the official to harbor unfounded suspicions about the request. An individual at [redacted] headquarters who read the ICR's report and characterized the idea raised by the Ambassador in mid-March as a covert action also caused the ICR to form unfounded suspicions about the conduct of Ambassador Galbraith and other senior policy makers. [redacted]

Although an ICR was admonished for editorializing in the reporting, the conduct continued throughout the summer and fall of 1994. More effective guidance should have been provided by the [redacted] Reporting inaccuracies could have been corrected earlier and more effectively if the [redacted] had provided an ICR with accurate legal advice and timely information about United States enforcement of the arms embargo. As a result of inadequate guidance, an ICR in Croatia was not informed until November 15, 1994, that the "no instructions" policy which the Ambassador asked be communicated through intelligence channels was an accurate statement of United States policy. An ICR in Croatia also should have been informed about the limited nature of the DCI's concern about the request made of the intelligence official by the

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Ambassador.

The Role of the Deputy Chief of Mission.

A key source of reporting by an ICR in Croatia consisted of remarks made by the DCM. In many cases, the remarks were not based on actual knowledge of events, but upon rumor, gossip and speculation. Although the ICR may have been somewhat overzealous in reporting these remarks, the willingness of the DCM to engage in this type of conduct over an extended period of time was a significant contributing factor to the tension at Embassy Zagreb. The degree and extent of the speculation that the DCM shared with the ICR also caused the ICR to form unfounded suspicions about the conduct of Ambassador Galbraith and the conduct of other policy makers.

The Communications between the Ambassador and an ICR in Croatia

Ambassador Galbraith was either unaware of or insensitive to the deep concerns of an ICR in Croatia. Although the lack of awareness or sensitivity is at least partly attributable to the unfounded nature of the concerns, closer communication between the two officials could have lessened the concerns of the intelligence official and avoided some of the confusion between senior Washington officials of the Department of State and the Central Intelligence Agency.

The Communications in May 1994 between the Senior Officials of the Department of State, the National Security Council and the Central Intelligence Agency.

Communications between the senior officials of the Department of State and the Central Intelligence Agency over the United States Government policy and conduct in the Balkans lapsed in April/May 1994 and in September/October 1994. On May 5, at the weekly meeting of

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Secretary of State Christopher and DCI Woolsey (also attended on this occasion by Deputy Secretary Talbott), the DCI described a request Ambassador Galbraith had made of an ICR in Croatia. The DCI said Ambassador Galbraith had asked an ICR to tell [redacted] that the United States would, in effect, look the other way with regard to the transshipment of arms through Croatian-held territory to Bosnia. [redacted]

DCI Woolsey's description of the Ambassador's request set off a chain of miscommunication and misunderstanding. Deputy Secretary Talbott knew that Ambassador Galbraith had been instructed to tell the Croatians that he had "no instructions." When he heard the words "look the other way," he was therefore surprised. In fact, Ambassador Galbraith did not tell the Croatians that the United States Government would look the other way.

The DCI's characterization of the message Ambassador Galbraith had transmitted incorrectly left Deputy Secretary Talbott with the impression that the Ambassador had expressed United States support for the transshipment of arms to the Croatian government. The use of the words "look the other way" by the DCI led Deputy Secretary Talbott to express concern because it was not consistent with the direction given to Ambassador Galbraith. The "no instructions" language was formulated to avoid putting the United States government in the position of either supporting or opposing the transshipment of arms. The "no instructions" response is very different from the language that the DCI attributed to the Ambassador; i.e, saying that the United States would, in effect, look the other way. In fact, Ambassador Galbraith had made his request of an ICR in Croatia so that an earlier and incorrect description of United States policy conveyed to a Croatian [redacted] official could be corrected. [redacted]

Both the DCI and the ICR were concerned that policy not be communicated through [redacted] Unlike an ICR in Croatia, however, DCI Woolsey did not question or

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express concern about substance of the request. In fact, the policy on the arms embargo was not even discussed by the DCI and the Deputy Secretary. The decision of an ICR to refuse to use [redacted] channels to convey the Ambassador's message was appropriate. The level of the intelligence official's suspicions and concern about the Ambassador's motives was not. [redacted]

Subsequent conversations among the senior Department of State officials, Ambassador Galbraith and Special Envoy Redman confirmed that the Ambassador had delivered the proper response to the Government of Croatia. Because the DCI never expressed interest or concern about the Ambassador's conversation with senior Croatian government officials, Deputy Secretary Talbott never got back to the DCI to inform him that Ambassador Galbraith and Special Envoy Redman actually had transmitted a "no instructions" response to the Government of Croatia.

For its part, [redacted] neglected to inform an ICR in Croatia that Ambassador Galbraith had been instructed to tell the Croatian government that he had "no instructions" regarding the transshipment of arms across Croatian-held territory to Bosnia. The failure of [redacted] to inform the ICR of the "no instructions" response caused the ICR to continue to assume through mid-November 1994 that United States policy was to enforce the embargo against third country transshipments of arms through Croatian-held territory to Bosnia and that Ambassador Galbraith and other United States government officials were taking actions contrary to that policy. [redacted]

Consultations in Fall 1994 among the Senior Officials of the Department of State, the National Security Council and the Central Intelligence Agency.

In September and October 1994, various intelligence sources incorrectly reported that senior officials of the United States government were engaged in active negotiations with third

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countries to provide arms to the Bosnians. In reality, United States Government officials were trying to determine whether the United States should encourage third countries on a secret and confidential basis to transship arms through Croatian-held territory to the Bosnian Muslims.

Senior officials of the Government of Bosnia-Herzegovina approached United States Government officials with a proposal that the United States Government encourage the shipment of third country arms to the Bosnian military. The United States considered, but did not agree to, the proposal. A great deal of discussion occurred about whether third countries should be encouraged to transship arms. Various United States agencies were tasked with studying scenarios, and conversations were held between senior United States and foreign officials. Intelligence reports began to carry accounts of these discussions, causing the CIA to become concerned unnecessarily that United States was actually planning and committing United States resources to an effort to ship arms to Bosnia.

The CIA expressed concern about the intelligence reporting to National Security Adviser Lake who brought the concerns to the attention of White House Counsel Abner J. Mikva. White House Counsel Mikva recommended to the President that an Intelligence Oversight Board investigation be convened to consider whether (1) Ambassador Galbraith or United States Special Envoy to the Former Yugoslavia Redman was directly involved in assisting a particular arms shipment reach Bosnia; (2) the Ambassador or the Special Envoy followed the Department of State directions with respect to the response provided the Government of Croatia on April 29, 1994; and (3) the Ambassador and/or Assistant Secretary for European Affairs Richard Holbrooke made an offer to supply arms to the Government of Bosnia-Herzegovina during the summer or early fall 1994.

The Intelligence Oversight Board determined that Ambassador Galbraith and Special

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Envoy Redman did not knowingly assist in the shipment of any arms to Bosnia and that they followed faithfully the Department of State directions in responding to the Government of Croatia on April 29, 1994. The Intelligence Oversight Board also determined that the Ambassador and Assistant Secretary Holbrooke did not make an offer to supply the Bosnians with arms.

Congressional Action.

Throughout 1994, the Congress conducted an extended debate on United States policy towards the Balkans in which the primary topic was whether the United States should lift the arms embargo against Bosnia unilaterally in the event that the allies refused to lift the embargo multilaterally. No Member of Congress ever called upon the United States to step-up enforcement of the embargo against third countries generally or against Iran in particular, presumably because the United States was under no obligation to enforce the embargo and a majority of the Congress supported the objective of providing arms to the Bosnian Muslims. The Congress and the Administration recognized that the Bosnians needed a larger and more secure supply of arms, shared a strong desire to help the Bosnians, and considered the Bosnian Serbs and the Serb government to bear the overwhelming responsibility for the onset of the conflict. The Administration supported a multilateral lifting of the embargo against Bosnia by the United States and its allies, but opposed a unilateral lift by the United States. The allies opposed both a multilateral and a unilateral lifting of the arms embargo against Bosnia on the grounds that the Serbs (and perhaps the Croats) would perceive the action to be pro-Bosnian and launch preemptive attacks against Bosnian positions; the war would be widened and extended; the potential for peace set back; and the safety of allied troops jeopardized by the intensified

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hostilities.

The Administration supported a multilateral lifting of the arms embargo against Bosnia because of the extraordinarily unfair military impact of the embargo on Bosnia and the atrocities committed by the Bosnian Serbs. The Administration opposed a unilateral lifting of the arms embargo against Bosnia because it believed the allies would consider the move to be extremely hostile and would remove their troops from Bosnia; the United States would be forced to help with the removal which would jeopardize American troops and aircraft; the Bosnian Muslims would be forced to endure a period of great risk and exposure to the Serb forces; and the war would become "Americanized."

The Administration also opposed sending troops to the region except to enforce a peace agreement to which all the parties had agreed or to live up to a commitment made by the Bush Administration to help extract the troops of the NATO allies in the event of an UNPROFOR withdrawal. The Administration recognized, however, that the vacuum created by the departure of the UNPROFOR troops would have created an opportunity for a larger and more sinister Iranian presence than subsequently occurred. The allies tolerated the clandestine arms shipments to Bosnia that had been occurring since 1991, but were very concerned that Congress was prepared to ignore their opposition and authorize a unilateral lift of the arms embargo against Bosnia (as, in fact, each House of Congress did agree to do at different times during the summer of 1994).

The Administration sought to negotiate an agreement with the Congress to formulate and implement a policy that minimized the potential for a conflict with the allies while maximizing the shipment of arms to Bosnia. The Congress certainly knew that arms were reaching the Bosnians: national and international news media and the daily intelligence reports identified Iran

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as a major supplier of arms to Bosnia during the spring and summer 1994. Yet at no time during this period of intense debate on the United States role in the Bosnian conflict did any Member of Congress urge the Administration to stop Iranian arms from reaching Bosnia.

Specific Shipments of Arms.

Throughout 1994, United States Government officials assisted in freeing detained humanitarian aid convoys bound for Bosnia even though the officials had no independent means of checking the content of the shipments. The efforts of the United States Government officials were, in all cases, predicated on the assumption that such convoys contained desperately needed humanitarian cargo. Intelligence reporting alleged that Ambassador Galbraith and/or Special Envoy Redman assisted in freeing a detained convoy bound for Bosnia which contained arms shipments in addition to or instead of humanitarian cargo. The suspected convoy was identified as traveling under the auspices of the Bosnian Ambassador to Croatia, although witnesses have testified that the Bosnian Ambassador was involved in more than one convoy which makes it difficult to distinguish which convoy is under discussion.

No evidence or testimony connects Ambassador Galbraith to the suspected convoy. The only evidence or testimony that connects Special Envoy Redman to the suspected convoy is a phone call he received from a Bosnian official. There is no evidence that the Special Envoy knew or had reason to know that the convoy carried arms. Moreover, no evidence exists that the convoy actually carried arms.

Intelligence also reported that Ambassador Galbraith had met with an Islamic cleric and suspected arms merchant. No evidence exists to confirm the presence of the Ambassador and the cleric at any meeting at which arms purchases for or transfers to Bosnia were discussed. The

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Ambassador, the cleric and other Embassy Zagreb officials present at the meetings deny that any such conversation took place anywhere at any time.

In February 1995, United Nations personnel reported the detection of aircraft at the restricted airport of Tuzla. Some United Nations personnel who allegedly heard or observed the aircraft suggested they could have been United States planes. No evidence confirms these reports. In 1995, a senior official of the Government of Croatia asked the United States to investigate whether the cargo of an aircraft forced to land in Croatian territory contained missiles with chemical warheads. United States personnel examined the warheads and determined that they were not chemical. No evidence exists to suggest that the involvement of the United States extended beyond making the examination.

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Chapter One
Section One

SETTING THE STAGE: THE BALKAN WAR

On December 14, 1995, the warring factions in Bosnia-Herzegovina and Croatia formally ended almost four years of fighting with the signing of the Dayton Peace Agreement, an accord spearheaded by United States negotiators. Until that moment, peace had seemed an unlikely prospect for the Bosnian Muslims, Serbs and Croatians who had been engaged in nearly four years of brutal war characterized by mass murders, rapes, slave labor and the forced expulsion of minorities in the name of "ethnic cleansing." The warring parties were criticized by the international community for their brutality, lack of respect for United Nations "safe havens" and for routinely blocking the passage of humanitarian relief convoys. Some reports calculate the human cost of the Bosnian war at 250,000 killed; 200,000 wounded; and more than 1.3 million displaced refugees.[1]

1991-1992: War Erupts and the International Reaction.

In June 1991, simmering ethnic tensions within the Socialist Federal Republic of Yugoslavia came to a peak after the legislatures of Slovenia and Croatia voted overwhelmingly to declare their independence. As an immediate response to their secessions, the Yugoslav government issued a statement claiming such declarations to be "illegal" and "illegitimate" and

[1] Larry Q. Nowels, Bosnia Reconstruction: International Initiatives and the US Role, CRS Report 96-96 F, July 12, 1996, at 1.

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ordered its military to secure their borders.[2] Two days later, the national Yugoslav People's Army ("JNA"), whose Commander and a majority of whose soldiers were Serbian, responded with force and invaded Slovenia to prevent its separation, but the JNA was met with strong resistance. In Croatia, fighting erupted between Croatian security forces and minority Serb irregulars, who had the backing of the JNA. The Croatian forces quickly lost an estimated one-third of the country to the Serb insurgents.[3] Each of the warring factions, the Serbs, Bosnian Serbs and later the Bosnian Croats, declared regions of territory as "ethnically pure, autonomous" areas under their control, and fiercely fought to protect and expand their holdings.

In response to the civil unrest in Yugoslavia, the European Community ("EC") convened an emergency meeting of the Conference for Security and Cooperation in Europe ("CSCE"). The CSCE urged the warring factions to accept a cease-fire and sent observers to Yugoslavia to monitor their compliance and troop movement.[4] However, throughout the summer of 1991, while cease-fires were negotiated, signed, and violated, the JNA continued to launch military offensives in Croatia.

In its third meeting on this subject, the CSCE passed a resolution calling for the imposition of an arms embargo against all parties to the conflict.[5] On September 25, 1991, the

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[2] Julie Kim, Yugoslavia: Chronology of Events, June 15, 1991- August 15, 1992, CRS Report 92-689, at 1 (hereinafter "CRS Chronology 1991-1992").

[3] Steven Woehrel and Julie Kim, Bosnia - Former Yugoslavia and US Policy, CRS Issue Brief IB91089, July 8, 1996, at 3 (hereinafter "Woehrel").

[4] CRS Chronology 1991-1992, at 4. The meeting of the CSCE occurred on July 4, 1991 in Prague. Id.

[5] The third meeting was on Sept. 4, 1991, and occurred in Prague. Id.

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Bush Administration, on behalf of the United States, supported the passage of United Nations Security Council Resolution 713 ("UNSC Res. 713"). The resolution imposed a complete embargo on all weapons and equipment deliveries to the former Yugoslavia - including Bosnia, Croatia and Serbia.[6] Shortly thereafter, the United Nations Security Council passed Resolution 724, to establish a Sanctions Committee that would monitor compliance with the embargo.[7] Resolution 713, in concert with United National Security Council Resolutions 740 and 787 which addressed the implementation of the embargo, called on all nations to abide by the embargo, but did not legally require countries to enforce the embargo.[8]

The United Nations arms embargo was intended to contain the war and prevent the entry of additional countries into the conflict. One of the consequences of the embargo, however, was to preserve Serbian military superiority over the other republics due to the Serbs' alliance with the JNA and the extensive supply of equipment and munitions within the JNA arsenal.[9]

Throughout 1991, the JNA continued to attack various Croatian cities. In Zagreb,

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[6] United Nations Security Council Resolution 713, adopted on September 25, 1991, Article 6 (noting that "all States shall, for the purposes of establishing peace and stability in Yugoslavia, immediately implement a general and complete embargo on all deliveries of weapons and military equipment to Yugoslavia until the Security Council decides otherwise").

[7] United Nations Security Council Resolution 724, adopted on December 15, 1991. See Article 5(b) establishing the Sanctions Committee.

[8] See Chapter One, Section Five for a discussion of these United Nations Security Council Resolutions and the arms embargo. United Nations Security Council Resolution 740 was passed on Feb. 7, 1992, and United Nations Security Council Resolution 787 was passed on Nov. 16, 1992.

[9] Laura Silber, Allan Little, Yugoslavia, Death of a Nation 198 (1995) (hereinafter "Silber").

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governmental buildings, including President Tudjman's offices, were shelled. In the coastal town of Dubrovnik, the JNA cut off the power and water supplies, and severed telephone links for weeks at a time.[10] In November, the Serbian forces finally left Vukovar, a city of 45,000, in ruins after months of fighting.[11] The first United Nations-sponsored cease-fire went into effect on November 23, 1991, but quickly collapsed, as intense fighting continued elsewhere in Croatia.[12]

In January, 1992 the first European Community casualties were reported. Five military observers sent by the CSCE were shot down in their marked helicopter.[13] From this moment, it was evident that a larger international presence was needed to maintain peace in the region. Shortly thereafter, the United Nations sent a team to Croatia to lay the groundwork for the deployment of international peacekeeping troops. With United States support, the passage of United Nations Resolution 743 authorized the establishment of the 14,000-strong United Nations Protection Force ("UNPROFOR") for an initial service of twelve months.[14] The troops were composed of platoons from many nations including Great Britain, France, Canada, Egypt, Malaysia and the Russian Federation and were dispatched throughout the region in areas of

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[10] Id. at 14.

[11] Id. at 17.

[12] Id. at 18.

[13] Id. at 20.

[14] Id. at 24; see also, United Nations Security Council Resolution 743, passed Feb. 21, 1992 at Article 2 (which establishes and outlines the responsibilities of the United Nations Protection Force).

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heavy fighting and relative calm.[15]

1992-1993: Bosnia Enters the War.

In early 1992, the battle lines expanded into the territory of Bosnia-Herzegovina. In April, Serb militiamen and the Yugoslav Army launched attacks against Bosnian Government forces after Bosnia became the third country to declare its independence from Yugoslavia. The most ethnically diverse of the former Yugoslav states, Bosnia had been a melting pot of Serbs, Croats and Muslims. Although the Bosnian Government's predominantly Muslim army was larger than the Bosnian Serb Army ("BSA"), the alliance between the Bosnian Serbs and the JNA tipped the balance of firepower heavily in favor of the BSA, which quickly seized more than two-thirds of the territory and surrounded the capital city of Sarajevo.[16] In fact, after the Bosnian Serb Army invaded Sarajevo on May 2, 1992, the front-lines in the Sarajevo suburbs established by the BSA partitioned the city and held on for the rest of the war.[17] The tremendous disparity in weapons is described in a New York Times article that noted:

> [T]he Serbian forces in Bosnia have 300 tanks and the Bosnian Muslims just 2. The Serbian forces have 200 armored personnel carriers and the Muslims 1 or 2. The Serbian forces have 600 to 800 artillery pieces to two dozen in the hands of the Muslims.[18]

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[15] Julie Kim, UNPROFOR Deployment as of mid-March 1994, CRS, Sept. 24, 1996.

[16] Woehrel at 6.

[17] Silber at 233.

[18] Michael Gordon, Iran Said to Send Arms to Bosnians, New York Times, Sept. 10, 1992, at A10 (hereinafter "Gordon") (citing United States intelligence reports).

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As these numbers would suggest, Serb forces easily outgunned the Bosnian Muslims, quickly acquired vast expanses of territory and inflicted high numbers of civilian casualties.

Unlike the other warring factions whose patrons in Croatia and Serbia provided them with military and financial support, the Bosnian Muslims were forced to look beyond their immediate borders to acquire arms and other support. Despite the international arms embargo, the Bosnian Government forces acquired some small arms by various means including purchasing arms on the international grey market, receiving smuggled weapons from private humanitarian aid organizations, producing some small arms, and receiving clandestine shipments of weapons via an arms pipeline through Croatia.[19] Other countries came to the aid of the Muslims: Turkey and Pakistan smuggled small arms to the Bosnian Muslims; the Sultan of Brunei paid for a shipment of antitank missiles from Malaysia; and Saudi Arabia donated funds to the Bosnian Government to purchase arms from Hungary and Argentina.[20] The materials acquired by the Bosnian Muslims in the early years of the war, however, did little to sustain the troops or mount a strong opposition against the Serb forces. Bosnian President Izetbegovic called upon the United Nations on several occasions to lift the arms embargo and allow his forces

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[19] James Risen and Doyle McManus, US had Options to let Bosnia Get Arms, Avoid Iran, Los Angeles Times, July 15, 1996, at A1 (which notes that Iran sent modest shipments of arms to Bosnia beginning in 1991)(hereinafter "US Had Options"); see also, John Pomfret, How Bosnia's Muslims Dodged Arms Embargo; Relief Agency Brokered Aid from Nations, Radical Groups, The Washington Post, Sept. 22, 1996, at A1 (illustrating how Bosnia's government purchased hundreds of millions of dollars worth of black-market weapons and smuggled shipments into Bosnia via humanitarian aid cargo transport); United States Department of State Fact Sheet: Basic Chronology of the Bosnia Arms Embargo-Iran Connection (hereinafter "D.O.S. Chronology").

[20] US Had Options at A6.

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access to heavy weapons to defend themselves, but his efforts were unsuccessful.

The violence escalated during the spring of 1992. Although cease-fires had been negotiated and signed, none had held successfully.[21] Beginning in 1992, successive diplomatic initiatives sponsored by the United Nations and the European Union were rejected. Numerous cities in Bosnia-Herzegovina including Mostar, Gorazde and Sarajevo came under heavy attack from the Bosnian Serb forces, killing many, trapping United Nations peacekeepers, and making the delivery of humanitarian aid nearly impossible.[22] In May, under international pressure and the threat of Western sanctions, the Yugoslav Army announced its withdrawal from the conflict, but allowed its soldiers who were born in Bosnia-Herzegovina to remain and fight with their weapons and equipment, thus further solidifying the superiority and military strength of the Bosnian Serbs. In June, Serbian militia forces fiercely attacked Sarajevo, deploying rockets, mortars, and artillery.[23] In July, an international airlift to provide food, medicine and relief supplies to the starving citizens in Sarajevo began.[24]

Despite the reported offenses by all factions, in April of 1992 the European Community and the United States formally recognized the countries of Bosnia-Herzegovina, Croatia and

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[21] CRS Chronology 1991-1992. Several cease-fire agreements had been negotiated in 1992. By June 1, 1992, at least eight had been signed: January 3, 1992, April 5, 1992, April 12, 1992, April 15, 1992, April 23, 1992, May 6, 1992, May 15, 1992, and June 1, 1992. Id.

[22] Id. at 29.

[23] Id. at 33.

[24] Id. at 36. Before the airlift ended, some three-and-one-half years later in January 1996, approximately 13,000 flights carrying an estimated 18,000 tons of medicine and 160,000 tons of food had landed, making the Sarajevo airlift the largest in history.

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Slovenia, and lifted the economic sanctions imposed upon them. In May, these countries gained admission to the United Nations.[25] On May 30, 1992, the United Nations Security Council imposed sweeping economic sanctions on the Federal Republic of Yugoslavia ("FRY"), now consisting solely of Serbia and Montenegro, for its role in promoting the creation of an autonomous Serb state and supporting Serbian guerrilla forces, federal Yugoslav army units and the Bosnian Serb Army.[26] Almost one year later in April 1993, these sanctions were further tightened by the United Nations Security Council which banned the transshipment of goods through Serbia and Montenegro and froze financial assets abroad.

In the summer of 1992, incidents of ethnic cleansing were widely reported. In the northeast Bosnian city of Brcko, Serb forces systematically executed Muslim men in the prison camp of Luka. Inmates were selected to be interrogated, beaten and killed almost every day over a two week period.[27] In Bosanski Samac, Serb military forces overran the city and carried out an orchestrated campaign of terror to force Bosnian Croat and Muslim residents to leave the area.[28] Newsday described the expulsion of 1,800 Muslims from the Bosnian village of Kizluk on a train as "the latest twist of cruelty in an already brutal war . . . part of a policy by the Serbian-led

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[25] CRS Chronology 1991-1992 at 31.

[26] Woehrel at 10; see also, United Nations Security Council Resolution 757.

[27] The International Criminal Tribunal for the Former Yugoslavia, Indictment by the Prosecutor of the Tribunal against Jelisic and Cesic, (World Wide Web at: gopher://gopher.igc.apc.org:7030/00/cases/Jelisic).

[28] The International Criminal Tribunal for the Former Yugoslavia, Indictment by the Prosecutor of the Tribunal against Miljkovic, Simic, Tadic, Todorovic and Zaric, (World Wide Web at: gopher://gopher.igc.apc.org:7030/00/cases/Milijkovic).

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Yugoslav government to ethnically cleanse historically Muslim areas of Bosnia."[29]

Detention centers and prisoner of war camps also were uncovered. Prisoners freed from the camps described them as places where "beatings and torture are an integral part of the daily regime" and venues of "executions, mass deportations in closed freight cars, forced marches and a regime of starvation and abandonment to the elements."[30]

In August, a television crew from the British Independent Television News visited the prison camps of Omarska and Trnopolje, located in northern Bosnia. Despite the tight control of prisoner interviews and access areas, the footage shot by film crews "was reminiscent of scenes from Nazi concentration camps. Gaunt men with protruding ribs stared listlessly from behind a barbed-wire fence."[31] Many observers believe that throughout the war, "war crimes" were an integral component of the political and military strategy of the Bosnian Serb leaders. Although Bosnian Serbs were perceived to have committed the greatest number of war crimes, Croats and Muslims also participated in episodes of indiscriminate killing and violence.[32] The International Red Cross claimed that it had been barred from entering most detention centers, but that all sides of the Yugoslav conflict were committing these atrocities.[33] The United Nations felt the need to

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[29] Roy Gutman, Ethnic Cleansing: Yugoslavs try to Deport 1,800 Muslims to Hungary, Newsday, July 3, 1992, at 5.

[30] Roy Gutman, Prisoners of Serbia's War: Tales of Hunger, Torture at Camp in North Bosnia, Newsday, July 19, 1992, at 7.

[31] Ron Howell, At UN, Pressure for Armed Reply, Newsday, Aug. 7, 1992, at 5.

[32] Margaret Mikyung Lee, Raphael Perl, Steven Woehrel, Bosnia War Crimes: The International Criminal Tribunal for the Former Yugoslavia and US Policy, CRS Report 96-404F, May 6, 1996, at 1 (hereinafter "CRS: War Crimes Tribunal").

[33] CRS Chronology 1991-1992 at 41.

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take action and established the War Crimes Commission in October 1992, to investigate the reported offenses.[34]

In early 1993, the United Nations Security Council passed Resolution 808, establishing the International War Crimes Tribunal.[35] The Tribunal was authorized to investigate and prosecute persons who were responsible for committing serious violations of international humanitarian law within the territory of the former Yugoslavia since 1991, including violations of the laws of war, genocide and crimes against humanity, and violations of the Geneva Convention - intended to protect civilians and prisoners of war from willful killing and torture.[36]

President Izetbegovic charged that Bosnian Muslims were the victims of "genocide" and implored the world community to defend their freedom and their ability to defend themselves as its "duty."[37] Increasingly, Islamic nations complained that the tepid response against the Serb aggressions by the United Nations and western countries condoned the persecution of Muslims. The forty-seven countries of the Organization of the Islamic Conference ("OIC") were naturally sympathetic toward the Bosnian Muslims. The OIC members also were bound by the United

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[34] CRS War Crimes Tribunal at 2; see also, United Nations Security Council Resolution 780, adopted Oct. 6, 1992, at point 2 (establishing the Commission of Experts to collect evidence of atrocities).

[35] Id. at 4; see also, United Nations Security Council Resolution 808, adopted Feb. 22, 1993, at point 1 which provides that "an international tribunal shall be established for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991."

[36] Id. at 6-7; see also, United Nations Security Council Resolution 808.

[37] Saul Friedman, Bosnia's Plea to Summit; Use Forces to Destroy Serb Guns, Leader Asks, Newsday, July 10, 1992, at 7.

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Nations arms embargo, although their degree of adherence to the embargo varied. In December, 1992, the OIC passed a declaration calling for the lifting of the arms embargo.[38] President Izetbegovic responded to outpourings of support from the Islamic community with public accolades and declared that "we consider Iran as our greatest friend in the world."[39] The American public was increasingly sympathetic to efforts to arms the Bosnian Muslims and neither the Bush Administration nor Members of Congress condemned Izetbegovic for expressing such views about Iran.

Iran views itself as the "protector of oppressed Muslims worldwide" and was particularly active in its support of the Bosnian Government forces.[40] [redacted] beginning in 1992, began implementing plans to send diplomatic, economic, and humanitarian assistance to the Bosnian Muslims to make up for the inability of the United Nations to intervene on behalf of the Bosnian Muslims.[41] Additionally, Iran supplied clandestine military aid and personnel to the Bosnian Government Army. [redacted]

In September 1992, western news and Croatian government sources reported the first

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[38] Kenneth Katzman, Julie Kim and Richard Best, Bosnia and Iranian Arms Shipments: Issues of US Policy and Involvement, CRS Report 96-360F, Apr. 24, 1996 at 1.

[39] FBIS, Iranian Daily Interviews Izetbegovic, Dec. 30, 1992, at 27.

[40] See Chapter Three, Section One for a discussion of Iran's activities in the region between 1991 and 1996.

[41] DCI Interagency Balkan Task Force, [redacted] May 3, 1996, at 1. [redacted]

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substantial leak and "one of the most brazen efforts yet" to circumvent the arms embargo.[42] An Iranian Boeing 747 had secretly landed in Zagreb, Croatia, carrying more than 4,000 guns; more than one million rounds of ammunition; and forty Iranians in an "apparent attempt by the Islamic state to smuggle weapons to Muslim forces."[43] The Iranian 747 flight appeared to confirm rumors that Iran and other Islamic countries had been involved in providing weapons and aid to the Bosnian Muslims in violation of the arms embargo.[44]

Although the Muslim forces were desperate for weapons, President Bush responded to the report of the Iranian weapons delivery by officially protesting to Croatia and the Croatian Government impounded the arms. Secretary of State Eagleburger recalled, "We made it very clear that we were adamantly opposed to this going on."[45] U.S. Department of State officials condemned Iran's attempt to skirt the United Nations arms embargo, but acknowledged that previous Iranian flights also may have included illegal arms shipments.[46] [redacted]

[redacted][47]

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[42] Douglas Jehl, Iranian Effort to Send Bosnia Arms Reported, Los Angeles Times, Sept. 10, 1992, at A1, A6.

[43] Id.

[44] FBIS, Foreign Minister Denies Islamic Arms Shipments, Sept. 10, 1992, at 23.

[45] James Risen and Doyle McManus, US Okd Iranian Arms for Bosnia, Officials Say, Los Angeles Times, Apr. 5, 1996, at A1.

[46] Michael Gordon, Iran Said to Send Arms to Bosnians, The New York Times, Sept. 10, 1992, at A10.

[47] [redacted]

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1993-1994: Clinton's Bosnian Policy and the Muslim-Croat War.

During the 1992 Presidential campaign, President Clinton criticized President Bush for taking little action to support the Bosnian Muslims.[48] President Clinton publicly opposed the arms embargo and argued the United States should do more, including conducting air strikes, to protect Bosnia.[49] Once elected, however, Clinton's foreign policy to aid the Bosnian Muslims was constrained diplomatically and militarily. President Clinton faced strong resistance to multilaterally lifting the arms embargo from the European allies, particularly Great Britain and France which feared that a retaliatory strike by the Bosnian Serbs would endanger their troops on the ground. In the absence of necessary international support for a multilateral lift of the embargo, Congress supported a unilateral lift to allow the United States to supply weapons directly to the Muslims.[50] However, the allies opposed unilateral action by the United States vigorously. The Administration shared the allies' opposition to unilateral action out of concern that any Serb retaliation would endanger UNPROFOR troops, that our allies would withdraw their troops, and because unilateral action by the United States would be a direct violation of the international arms embargo.[51] The Administration was concerned about an adverse effect

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[48] US Had Options at A6.

[49] Id.

[50] See Chapter One, Section Three for a discussion of actions in Congress urging multilateral and unilateral lifting of the United Nations arms embargo.

[51] U.S. Department of State Fact Sheet: US Policy Toward Potential Arms Shipments to Bosnia: 1994-Present, Apr. 29, 1996, at 1.

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unilateral action would have on the adherence to and the success of other embargoes against Iraq, Libya, and North Korea.

In early 1993, the Clinton Administration supported a comprehensive peace settlement (the "Vance-Owen plan") sponsored by the two Chairmen of the Peace Conference on former Yugoslavia, United Nations envoy Cyrus Vance and European Community mediator Lord David Owen. The Vance-Owen plan would apportion Bosnia into ten provinces, primarily defined along ethnic lines. The plan would create ten separate provinces, of which three would be defined by a Serb majority, three would have a Muslim majority, two would have a Croat majority, one would be a Croat-Muslim province, and the tenth would be the city of Sarajevo, which would retain a presence of all ethnicities.[52] Throughout the first months of 1993, the two mediators negotiated with the leaders of each warring faction to garner support for the peace settlement. The Serbs rejected the plan because it required them to return some Muslim pockets of territory they had already conquered and because the Serb provinces would be isolated from each other. Bosnian President Izetbegovic criticized the plan for imposing ethnic partitions across Bosnia, although he felt pressure to accept the plan to gain international approval. In contrast to the other factions, the Croats supported the plan because it fulfilled their objective of creating autonomous Croat provinces that adjoined Croatia and extended into Bosnia.

The Bosnian Serb Assembly voted to reject the plan and it lost the support of the United States for three reasons: first, the United States feared that the plan, if adopted, would be unenforceable; second the Bosnian Government continued to strongly criticize the plan; and

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[52] Silber at 288.

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third, it would have required 50,000 ground troops to enforce and the United States maintained its reluctance to send peacekeeping troops from the United States armed forces into the region.[53] After abandoning its support for the Vance-Owen plan, President Clinton looked for other ways to support a multi-ethnic state in Bosnia.

During his first six months in office, President Clinton worked to establish a more active Bosnian policy. In June, Secretary of State Christopher announced the first commitment of United States peacekeeping ground forces to the war, offering 300 United States troops for the UNPROFOR force in Macedonia.[54] The President also worked successfully within the international arena to urge the North Atlantic Council to employ "stronger measures including air strikes" against Bosnian Serb forces (action the NATO Council endorsed).[55] Preparations for the use of NATO air power began immediately after the endorsement.[56]

In late April 1993, increasing tensions between the Bosnian Muslims and the Croats erupted into violence. For almost one full year, the Bosnian Muslims found themselves waging wars on two fronts. Ethnic tensions, an influx of refugees who had been "ethnically cleansed" from other cities, and the proximity of Croatian HVO troops and Bosnian Army troops in the same territory caused renegade skirmishes to grow into larger military battles.[57] The war

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[53] Id.

[54] Julie Kim and Steve Woehrel, Bosnia-Hercegovina Conflict: Chronology of Events in the Former Yugoslavia June 1, 1993-May 31, 1994, CRS Report 94-522F, June 13, 1994, at 1 (hereinafter "CRS Chronology 1993-1994").

[55] Id. at 3.

[56] Id.

[57] Silber at 294.

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between Bosnian and Croat forces was characterized by surges through Croat villages by the Bosnian Army, burning and looting as it went.[58] For its part, Croatian HVO troops rounded up Muslim men in conquered villages.[59] Incidents of ethnic cleansing, massacres and continued fighting between the Muslims and Croats were widespread.

At the same time, the Bosnian Serb Army continued to advance against the Muslim forces. In response to the ruthless attack on the Bosnian city of Srebrenica and its subsequent surrender to the Serb forces in April 1993, and to heavy fighting elsewhere, in June 1993, the United Nations Security Council passed Resolution 836 expanding the mandate for the UNPROFOR troops to include protection of six Bosnian "safe areas."[60] The areas included Sarajevo, Bihac, Srebrenica, Tuzla, Gorazde and Zepa and allowed "all necessary measures" including air power to support UNPROFOR in its protection of the safe areas.[61] The designation of the safe areas required UNPROFOR to progress from peacekeeping to peace-enforcement in these areas and marked the first time in the conflict that the United Nations relinquished its strict neutrality and committed to the protection of one side over the other.[62] In reality, however, the declared "safe areas" were far from safe.

As 1993 continued, prospects for peace in the region remained slim. United States

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[58] Id. at 299.

[59] Id.

[60] CRS Chronology 1993-1994 at 1; see also, United Nations Security Council Resolution 836, passed June 4,1993; United Nations Security Council Resolution 824, passed May 6, 1993.

[61] CRS Chronology 1993-1994 at 1.

[62] Silber at 274.

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diplomats attempted to negotiate a cease-fire and union between the Bosnian Croats and Bosnian Muslims in August 1993, but provocations and broken promises on both sides caused the fighting to continue into the fall and winter.[63] In October, the United Nations Security Council passed a resolution extending the mandate for the UNPROFOR forces until March 31, 1994.[64] In November, Bosnian Croat shelling destroyed the famous Old Bridge in Mostar, an international landmark built by the Ottoman Turks in 1566 and a symbol of past unity in a town where the ethnically-diverse residents had lived in mutual tolerance.

Under pressure from the United States and other nations that advocated the lifting of the arms embargo, the United Nations General Assembly passed a non-binding resolution on December 20, 1993, urging the Security Council to lift the embargo on the Bosnian government.[65] However, the Security Council did not have the votes to enact such a measure.

Negotiating the Federation Agreement.

In February of 1994, Bosnian Serbs attacked a crowded market square in Sarajevo, killing sixty-eight people, wounding more than 200 and sparking worldwide outrage.[66] The Clinton Administration responded to the incident by calling for NATO air strikes against Serb gun

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[63] Silber at 320.

[64] CRS Chronology 1993-1994 at 5; see also, United Nations Security Council Resolution 871, Article 11, adopted Oct. 4, 1993, which extends the mandate for UNPROFOR for an additional period terminating on Mar. 31, 1994.

[65] CRS Chronology 1993-1994 at 6.

[66] Id. at 8.

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emplacements and encouraging the Muslims and Croats to present a unified defense against the Serbs. The Serb forces agreed to comply with the NATO demands, thereby avoiding the threatened air strikes. The front lines did not remain quiet for long. Later in February 1994, the first combat action in the 45-year-old history of NATO was initiated when United States fighter pilots downed four Bosnian Serb planes illegally flying in a no-fly zone.[67]

Throughout the Muslim-Croat conflict, mediators from the United States sought to exert pressure on both sides to enter into peace negotiations. In February, the United Nations issued an ultimatum to Croatia to pull its army out of Bosnia or face sanctions and world isolation.[68] The threat worked. Croatia agreed to withdraw its army and commence serious negotiations for a Federation. By the end of February, the Bosnians and Croats were en route to Washington and, over the next four days, negotiated a draft agreement. Despite the year long violence between the Muslims and Bosnian Croats, the two parties signed an accord establishing a fragile alliance. President Clinton hailed the pact as "one of the first clear signals that parties to this conflict are willing to end the violence and begin a process of reconstruction," and The Los Angeles Times noted that the agreements stirred "hope for a comprehensive settlement" in the Balkans.[69]

The impact of the Federation Agreement was instrumental to the survival of the Bosnian Muslims until the signing of the Dayton Accords the following year. The most important and immediate consequence of the Agreement was to enable the Bosnian Army to focus its energy on

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[67] Id. at 10.

[68] Silber at 322.

[69] Paul Richter, Muslims, Croats Sign Accords for New Federation, Los Angeles Times, Mar. 19, 1994, at A1.

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the war with Serb forces, and to create a Muslim-Croatian unified defense to put additional pressure on the Serbs to negotiate a peace settlement.[70] The Bosnian Army's supply of weapons and munitions increased as a result of access to Croatian weapons caches and the arms pipeline was reopened through Croatian territory.[71] The alliance also enhanced the delivery of needed humanitarian aid to Muslim enclaves.[72]

Despite the momentum provided by successful negotiations to establish the Muslim-Croat Federation, peace with the Bosnian Serbs was not forthcoming. The Serb forces continued to hold seventy percent of the territory in Bosnia. In April 1994, gunfire and explosions erupted again in Sarajevo.[73] At the same time, the Serbs launched attacks against three United Nations "safe havens." Srebrenica and Zepa fell quickly. Gorazde, a city of 65,000 strategically located between two large Serb-held towns in the Drina Valley, was subjected to a devastating siege. The Bosnian Serbs were attempting to consolidate their territory in the event that a quickly-moving peace process would freeze existing boundaries.[74] United Nations officials, however, interpreted the vigorous attacks on the cities in northern Bosnia as retaliation against the Federation agreement.[75]

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[70] Silber at 319; see also, Steven Greenhouse, Muslims and Bosnian Croats Give Birth to a New Federation, New York Times, Mar. 19, 1994, at A4.

[71] Silber at 319.

[72] Id.

[73] Julie Kim, Detailed Chronology of Events in Bosnia during March-April 1994, CRS Report, July 18, 1996, at 4 (hereinafter "CRS Detailed Chronology").

[74] Silber at 325.

[75] Id; CRS Detailed Chronology at 4.

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The siege of Gorazde was particularly harsh. United States Special Envoy to the Former Yugoslavia Charles Redman characterized the attack as "very, very brutal . . . we simply had a bunch of helpless civilians being pounded at point blank range by Serbian tanks."[76] At the height of the assault, Serb gunners were hitting the city an average of once every twenty seconds for an entire day. Bosnian President Izetbegovic responded with another international call for weapons to be used in self-defense.[77] The events in Gorazde made absolutely clear the inability of the UNPROFOR forces to protect the "safe areas" under the existing rules of engagement.[78] The situation was becoming increasingly dangerous to citizens of Gorazde, the international relief agency personnel and the United Nations personnel in the city.[79]

UNPROFOR Commander General Rose demanded Serbian General Mladic put a stop to the attacks on Gorazde or face NATO action, but the attacks continued.[80] In what President Clinton described as "a clear call to the Serbs to pull back from Gorazde and resume the negotiations," NATO jets began to carry out air strikes against the Serb forces with increasing frequency and intensity to protect the United Nations personnel and civilians.[81] Bosnian Serb leader Karadzic retaliated by detaining United Nations troops and officials, banning American

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[76] Select Subcommittee Deposition of Charles Redman, Aug. 27, 1996, at 29 (hereinafter "Redman Subcommittee Dep.").

[77] CRS Chronology 1993-1994 at 14.

[78] [redacted]

[79] [redacted]

[80] Silber at 327.

[81] CRS Chronology 1993-1994 at 13.

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journalists from Serb territories and declaring United Nations Commander Rose persona non grata.[82] The retaliation by the Serb forces hardened allied opposition to a unilateral lifting of the arms embargo. Bosnian Serbs also blocked United Nations relief convoys from bringing needed food and medicine to Gorazde.[83] Near the end of April, Bosnian Serb troops began to comply with NATO deadlines to withdraw their heavy weapons and air strikes diminished.[84]

While the Bosnian Serbs unleashed fierce attacks on the "safe areas" and other Bosnian enclaves, and the number of civilian casualties skyrocketed, the United States Congress hotly debated the issues of the arms embargo. During the spring of 1994, both Houses voted to mandate the lifting of the embargo.[85] The disproportionate impact of the arms embargo had become increasingly clear to the Administration, Congress, and the American public. Moreover, the new Federation Agreement between the Croats and Muslims offered the first real opportunity to forge a peace in the region.

This is the moment in the history of the Balkan conflict when the United States Ambassador responded to the President of Croatia that he had "no instructions" with respect to whether the United States would object if Croatia allowed arms shipments from other countries to pass through its territory into Bosnia.

Heavy fighting between the BSA and Bosnian Government forces resumed near the town

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[82] Id. at 14.

[83] Id. at 15.

[84] Id. at 16.

[85] See Chapter One, Section Three and related appendices on Congressional activity and policies relating to the United Nations arms embargo.

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of Bihac and in Gorazde for several days in July. In August, President Milosevic of Serbia announced that his government was going to sever its remaining political and economic ties to the Bosnian Serbs.[86]

The FRY government agreed to the deployment of international monitors to verify Yugoslavia's embargo of goods to the Bosnian Serbs. The Contact Group suspended some of the sanctions imposed on Yugoslavia by the United Nations and in September, the United Nations Security Council approved Resolution 943, easing sanctions on Serbia-Montenegro.[87]

As winter approached, military skirmishes on the ground in Bosnia continued. In November, continued and heavy fighting was reported throughout Bosnia and the situation in Bihac, one of the U.N. protected safe havens, escalated to a level which mandated more NATO air strikes. Also in November, President Clinton signed into law the Nunn-Mitchell Amendment to prohibit the expenditure of appropriated funds to enforce the arms embargo against the Bosnian Muslims.

The Effects of the Strategic Military Imbalance Between the Warring Factions.

The Bosnian Muslim forces clearly were undermanned and outgunned during the war. As Secretary of Defense Perry would later testify in 1996, "an important and significant factor in

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[86] CRS Chronology 1994-1995 at 3.

[87] Id. at 4; see also, United Nations Security Council Resolution 943, passed September 23, 1994.

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the cause of this war was the dramatic imbalance of forces which existed."[88] The United Nations, with the support of the United States, attempted to curtail the fighting in the Balkans by imposing an arms embargo against all states of the former Yugoslavia. The embargo not only failed to stop the deterioration of the situation in the former Yugoslavia, but in many respects contributed to further suffering in the region. Instead of reducing the flow of weapons to the region, the embargo increased the terrible disparity in military power among the factions and forced the Bosnian Muslims to seek weapons wherever they were available.[89] Unfortunately for the Bosnian Muslims, the embargo did not prevent arms from reaching the Croatians and the Serbs, further exacerbating the weak military position of the Bosnian Muslims.

In an article dated August 2, 1994, the Washington Times carried a chart outlining the sales and shipments of arms to the warring parties for the period 1992-94 during which the arms embargo was still very much in effect.[90] Croatia received the highest dollar amount of arms among the three countries -- receiving over $650 million in weapons in contravention of the arms embargo. Half of these weapons were of German origin.[91] Serbia, which had retained the bulk

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[88] Remarks of Rep. Benjamin Gilman before the House International Relations Committee, Apr. 23, 1996, at 10 (citing testimony of Secretary of Defense Perry before the House International Relations Committee, Nov. 30, 1995).

[89] Gordon at A10.

[90] Paul Beaver, Iran Uses Russian Planes to Supply Bosnian Muslim, Croatian Troops, The Washington Times, Aug. 2, 1994, at A14 (hereinafter "Arms Chart").

[91] Id. According to the chart, $320 million in German-origin arms were sold to Croatia. This chart does not indicate whether these figures also include the percentage of weapons Croatia demanded from shipments headed for the Bosnians which transcended its borders. These cuts were as high as thirty percent before the cessation of hostilities in the region.

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of the former Yugoslav military at the outset of the war, received approximately $476 million worth of additional weapons, nearly three quarters of which came from the former Soviet Union.

Bosnia, the neediest country of the three in terms of arms, received just $161 million in arms from third countries, $20 million of which came from Iran.[92] [redacted]

[redacted][93]

Neither Croatia's decision to cooperate with the Iranians and other Islamic countries in the reestablishment of the formal arms pipeline between Croatia and Bosnia, nor the formation of the Federation balanced the scales while the embargo was in place. Bosnia began receiving deliveries of arms from the Islamic countries on a more regular basis, but Serbia and Croatia continued to maintain a vast superiority in heavy and sophisticated weaponry.

In late 1994, the Croatian Defense Ministry commented that the current air deliveries of light weapons into the region were not enough[94] to aid the Bosnian cause. Of course, arguing for more weapons deliveries to Bosnia was in the interests of Croatia since it received one third of all shipments that went to Bosnia through its territory.[95] At the same time the Bosnian Foreign Minister lamented that it was extremely difficult to get financing and support from many of the

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[92] Id.

[93] [redacted]

[94] Memorandum to the File by Peter Galbraith, Sept. 5, 1994. (Confidential)

[95] INR Report, Nov. 18, 1993 (describing the Croatian arrangement before Muslim-Croat hostilities to take thirty percent of arms shipments to Bosnia).

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Islamic nations that publicly supported lifting the embargo to aid Bosnia's survival in the face of Serb aggression.[96]

Serbia also prospered under the arms embargo. By June 1994, the United States had noted a sharp erosion in the effectiveness of the arms embargo against all countries.[97] Leaks in the arms embargo were most apparent in Serbia where the entire economy was growing in spite of the economic sanctions against it.[98] The United States sought to impose tighter United Nations Security Council sanctions against Serbia, but met with strong resistance from the allies.[99] Serbia's ability to project its military threat throughout the former Yugoslavia, was demonstrated in November 1994 when Serbia threatened to bomb Pleso airport, Lucko airfield, and Zmaj if Croatia continued to supply Bosnian Muslims in Bihac.[100] Thus, even with assistance, the Bosnian Muslims found themselves at a disadvantage.

The Bosnian difficulty in receiving arms continued throughout 1995, until the signing of the Dayton Accords. Unlike Bosnian Croat and Bosnian Serb forces whose patrons in Croatia and Serbia provided them with material and financial support, the Bosnian Muslims had to look outside their immediate neighborhood for support. At no point during the conflict were the

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[96] Memorandum to the File by Peter Galbraith, Dec. 16, 1994. (S)

[97] Memorandum to the Secretary of State, June 2, 1994. (S)

[98] Id.

[99] See Department of State Cable, USUN 1931, Aug. 12, 1994, at 1. (S)

[100] Department of State Memorandum by Peter Galbraith, Nov. 17, 1994, at 1. The Serb threat did not materialize as the Croatians explained that they were not aiding the Bihac Muslims at the time although they had promised assistance in the previous month. Id.

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Bosnians able to counter the weapons possessed by the Serbs and Croats.[101] In addition, Croatia continued to take a thirty percent cut of the weapons it allowed to transit its territory en route to Bosnia, negotiated deals with Iran for the delivery of missiles able to hit Belgrade, and amassed a sizeable stockpile of materiel.[102] [redacted]

[redacted]

[101] Memorandum to the File by Peter Galbraith, June 20, 1995 [redacted]

[redacted]

[107] Id.

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[redacted][108]

The Clinton Administration saw the Federation Agreement as a critical factor in reducing the disparity in weaponry among the combatants. The most important consequence of the Federation Agreement was that it allowed the Muslims and Croats to concentrate on the war with the Serbs. The fact that Croatia reopened the arms pipeline for the Bosnians was an important secondary consequence.

1995: The Road to Dayton.

In December 1994, former United States President Jimmy Carter concluded a mission to Bosnia in which he negotiated a four-month cease-fire. The warring parties agreed to several military and humanitarian demands, including a "cease fire, the ending of Serb restrictions on humanitarian convoys, the reopening of the Sarajevo airport to aid flights, the protection of human rights, the opening of the Bosnian Serb territory to United Nations human rights investigators and the exchange of all detainees and prisoners of war."[109] Although the fighting quieted somewhat, this cease-fire, like all prior ones, began to fray as the April deadline approached. Negotiations for its extension were fruitless.

Once again, the Serb forces renewed their heavy weapons attacks against Sarajevo and

[redacted][108]

[109] Steven Woehrel, Bosnia-Hercegovina and Former Yugoslavia: Chronology of Events, June 1, 1994-July 16, 1995, CRS Report 95-823F, July 18, 1995, at 8 (hereinafter "CRS Chronology 1994-1995").

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other United Nations "safe areas," took United Nations peacekeepers hostage and used them as human shields and potential NATO air strike targets.[110] By July, the Serbs overran the safe haven of Srebrenica after NATO air strikes failed to stop their advance. Subsequent reports of the siege of Srebrenica suggest that thousands of Muslim civilians were massacred and buried in mass graves at this site.

The Western allies, fearing that Gorazde would be the next safe area to fall, promised "decisive and substantial" air strikes to protect the city.[111] A sustained air strike campaign by NATO against Serb targets and military equipment lasted throughout the summer and included thousands of sorties. While the strikes continued, United States negotiators renewed their efforts to discuss a cease-fire with the Serb forces. NATO's show of military superiority, together with Croatia's successful attacks against Serb-held areas of Croatia, created an incentive for the Serb forces to sit down at the negotiating table.[112] When the Serbs began to comply with United Nations demands and affirmed their willingness to sign a cease-fire, international negotiations sponsored by the United States, the European Union and Russia began in Dayton, Ohio.

Three weeks later, a peace agreement was initialed to create a central government and two semi-autonomous regions with Bosnian territory divided fifty-one percent to the Federation and forty-nine percent to the Bosnian Serbs. The agreement also contained provisions on military arrangements, free elections, human rights and refugee issues. After the agreement was

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[110] Id. at 12.

[111] Chronology: 1990-1995, Associated Press, The New York Times on the Web, (http://www.nytimes.com/specials/Bosnia/context/apchrono.html) at 5.

[112] CRS Chronology 1994-1995 at 6.

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signed, the United Nations Security Council passed Resolution 1021, to terminate the arms embargo on all former Yugoslav parties.[113] The negotiations for a permanent peace were formally signed in Paris on December 14, 1995, at a ceremony in which President Clinton commented, "I applaud these leaders for making the decision to turn from war to peace. . .Tomorrow they will begin the hard work of making that peace real."[114] To help implement the Dayton Accords, NATO deployed 60,000 troops, including some 20,000 United States troops, to participate in an Implementation Force ("IFOR") to patrol the separation of the factions.[115] In addition to contributing to the military force, the United States promised economic, humanitarian and military aid. The long term fate of the peace process is not yet clear but elections have been held and the cease-fire has been maintained. The civilian initiatives such as resettling refugees, providing a basis for economic growth and jobs, and creating a new government structure have begun. Unlike the situation on the ground in April 1994, there is an absence of war. In this the Dayton Accords are a success.

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[113] Id. at 11; see also United Nations Security Council Resolution 1021, point 1, adopted Nov. 22, 1995 (noting that the United Nations Security Council "decides that the embargo on deliveries of weapons and military equipment imposed by resolution 713 (1991) shall be terminated.")

[114] Sharon Machlis Gartenberg, Treaty Signed in Paris to Formally End Bosnian War, Bosnia Action Coalition, Dec. 14, 1995 (http://world.std.com/~slm/paris.html).

[115] Julie Kim and Elizabeth Marino, Bosnia and Former Yugoslavia: Chronology of Events, July 19, 1995-May 31, 1996, CRS Report 96-556F, June 10, 1996, at 13.

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Chapter One
Section Two

THE UNITED STATES POLICY TOWARD BOSNIA

Upon assuming office in January 1993, the Clinton Administration was forced to deal with a deteriorating military situation in Bosnia. One option in addressing the problem was to lift the United Nations embargo that had been agreed to by the previous administration and to enable the Bosnian Muslims to defend themselves. This chapter describes the policy choices that were available to the Administration, how the views of the allies and the role of Iran were taken into consideration, and why the policy worked.

The Bush Administration's Approach.

After war broke out in Yugoslavia in 1991, the United Nations imposed an arms embargo on the entire country in an attempt to stem the fighting.[1] The embargo remained in effect on all parts of the former Yugoslavia despite the fact that the military capabilities of the newly independent Yugoslav republics varied widely. During the summer and fall of 1992, political pressure to lift the arms embargo increased in the United States and elsewhere in response to revelations of the Serb campaign of ethnic cleansing against the Bosnian Muslims and Croats. Proponents of lifting the embargo argued that the Bosnian Serbs' inheritance of the Yugoslav National Army's (the "JNA") equipment provided them with a significant military superiority that made possible ethnic cleansing and other human rights abuses. The Bush

[1] U.N. Security Resolution 713, Sept. 25, 1991.

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Administration rejected these calls. [2]

During Labor Day weekend, 1992, an Iranian Boeing 747 landed at Zagreb ostensibly en route to Bosnia to deliver humanitarian supplies. Croatian officials inspected the plane and found weapons and Iranian military personnel. The Croats seized the war materiel and sent the Iranians home. [3] Bush Administration officials noted that the seizure of the Iranian shipment represented the first tangible evidence of previously unconfirmed reports that Islamic countries had been providing military aid to the Bosnian Muslims.[4] The Bush Administration officials also expressed concerns to the Croats about reports of Iranian flights.[5] Ironically, at the same time that the Bush Administration was actively seeking to keep weapons from reaching the Bosnian Muslims, the United States Government confirmed a Newsday report, that the Bosnian Serbs were operating detention camps where Muslim and Croat civilians were being held, tortured, and executed.[6]

President Clinton's Push to Lift the Embargo -- 1993.

President Clinton advocated lifting the arms embargo against the Bosnian government

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[2] U.S. Rules out Allowing Bosnia to Arm Itself, Reuters, Oct. 14, 1992.

[3] Michael R. Gordon, Iran said to Send Arms to Bosnians, New York Times, Sept. 10, 1992, at A10.

[4] Id.

[5] Id.

[6] U.S. Demands Red Cross Have Access to Detention Camps, Associated Press, Aug. 10. 1992 (noting that the Bush Administration was "doing everything in its power to open detention camps in Bosnia-Hercegovina.").

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multilaterally and conducting air strikes against the Bosnian Serbs (the so-called "lift and strike option"). The lift and strike proposal represented a rejection of the Bush Administration effort to demilitarize the Balkans by maintaining an arms embargo against all the countries of former Yugoslavia. The Clinton Administration believed that the embargo worked to the decisive advantage of the Serbs who were primary perpetrators of ethnic cleansing and other war crimes.

During the spring and summer of 1993, the Clinton Administration sought to convince its NATO allies to support "lift and strike," but was unable to achieve consensus among the European allies, and shelved the proposal. When the allies said no to lift and strike, the Administration was not willing to compromise allied unity and initiate a unilateral policy which might have led to the commitment of thousands of U.S. troops to a combat situation in Bosnia. Therefore, the Clinton Administration continued to abide by the arms embargo and participate in NATO's Operation Sharp Guard interdiction effort in the Adriatic. However, the Administration no longer interfered with arms shipments by others through Croatian territory.

The Administration pursued multilateralism only to the extent that it served U.S. interests. The United States adopted a creative approach in which it continued to abide by the United Nations Security Council resolutions, while simultaneously pursuing its own goal of allowing the Bosnians to arm themselves. According to Alexander Vershbow, former Deputy Assistant Secretary of State for European Affairs, the Administration distinguished between that which it was required to do under United Nations Security Resolution 713 -- abide by the

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[7] Select Subcommittee Interview of Samuel Berger, Sept. 25, 1996 at 4 (hereinafter "Berger Subcommittee Int.")(explaining that the Nunn-Mitchell amendment codified what the United States was doing already: not enforcing the arms embargo).

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embargo -- and that which it was merely "called upon" to do under United Nations Security Resolutions 740 and 787-- enforce the embargo. Vershbow testified that "the Administration, although it had to abide by the arms embargo itself, was clearly on record as opposing the arms embargo and, therefore, we felt that it was not necessary for us to aggressively enforce the arms embargo."[8] Vershbow is one of several senior Administration policy makers who acknowledge the United States had evidence for many months prior to April 1994 that the embargo was being evaded. Vershbow stressed, however, that the United States "chose as a policy matter not to send a telegram to our Embassy [in Croatia] to protest and tell them to cut it out. We chose to take kind of a -- more of a hands-off neutral stance."[9]

Reginald Bartholomew, the former U.S. Special Envoy for former Yugoslavia, testified that his understanding of U.S. policy in 1993 was "the United States would, for its part, respect the basic provisions of the U.N. embargo in the sense of not itself transferring arms. The United States as a NATO member would, for its part, participate in the Sharp Guard operation, which was related, but there it stopped. . ."[10]

The Croatian Question -- 1993

In April 1993, the Croatian Government first sought to ascertain the Clinton

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[8] Select Subcommittee Deposition of Alexander Vershbow, Aug. 8, 1996, at 20 (hereinafter "Vershbow Subcommittee Dep.").

[9] Id. at 21.

[10] Select Subcommittee Deposition of Ambassador Reginald Bartholomew, Sept. 30, 1996, at 22 (hereinafter "Bartholomew Subcommittee Dep.").

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Administration's views on arms shipments to Bosnia. The Croatian inquiry may have been prompted by an expectation that the Clinton Administration would take a different approach than the Bush Administration crackdown of September 1992. The Croatian government had reasonable grounds to ask such a question since Charge d'affaires Ronald Neitzke (who would later become the Deputy Chief of Mission under Ambassador Galbraith) had told the Croats two months earlier that the United States strongly discouraged Croatia from serving as a transshipment center.[11] [redacted] The Neitzke statement also conflicted with the fact that arms shipments were already reaching Bosnia without United States interference. In general terms, the Neitzke advice reflected the Bush Administration action in September 1992, and not the Clinton Administration's view. [redacted]

Defense Minister Susak raised the question about the United States view during a visit to Croatia in April 1993 by former Special Envoy to the Former Yugoslavia Reginald Bartholemew. Specifically, the issue was raised after a breakfast meeting, in which discussion had focused on relations between Croatia and Bosnia, and efforts to encourage the Croats to exercise some restraining influence on the Bosnian Croats to ease the growing tension with the Muslims.[12]

Defense Minister Susak asked Special Envoy Bartholemew how the United States would

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[11] U.S. Department of State Cable No. 93 Zagreb 00499, February 14, 1993 (SECRET).

[12] Bartholomew Subcommittee Dep. at 13.

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react to Croatia allowing weapons to transit Croatia en route to Bosnia. Bartholomew responded that the United States could not be put in a position of saying yes or no to the Croatian question. Bartholomew conveyed to Susak "that we didn't take a position on this, that we didn't approve, that we didn't disapprove, that we weren't. . . going to be part of this one way or the other, that he had to make his own decisions where this was concerned."[13] The United States did not want to be put into a position of policing Croatia's border with Bosnia on the one had or of approving weapons deals on the other. Either of those positions would have been contrary to U.S. policy. Bartholomew stated:

> [W]e weren't going to get into the business of these third-country arms transfers. We weren't going to be put in the business of approving some, disapproving others. We weren't going to become party to one way or the other where that was concerned; enforcing or saying yes to this, no to that, et. cetera. That was quite clearly something we didn't want to do.[14]

Bartholomew testified that Susak was ambiguous about whether arms already were flowing into Bosnia. He knew from other sources at the time, however, that the Croats were indeed letting at least some arms pass through, "even in the midst of having rough times with the Bosnians, because they were getting a cut of it."[15] Bartholomew also knew that Iran was one of the suppliers.

The Majority notes that it accepts Mr. Neitzke's second-hand account of events (in which Mr. Neitzke stated that Ambassador Bartholomew told him the U.S. could not be in the position

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[13] Id. at 18-19.

[14] Id. at 20.

[15] Id. at 17.

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of advising Croatia to transship arms to Bosnia) during this period over the first-hand account of Ambassador Bartholomew. In essence, Neitzke's account is not much different than Bartholomew's own. It should be noted, that Ambassador Bartholomew reported his conversation with Minister Susak orally to Ron Neitzke, who in turn, sent a cable on the conversation to Washington nearly two weeks later.[16] Although the cable states that Ambassador Bartholomew had cleared it, this does not appear to be the case. Ambassador Bartholomew never saw any report or cable on the issue, and does not remember clearing any cable on the subject.[17] Moreover, Mr. Neitzke has testified that Ambassador Bartholomew reported the conversation to him in the car on the way to the airport for a departing flight which calls into question when and how Bartholomew would have been able to sign off on Neitzke's second hand account of the conversation.

One year later, Croatian President Tudjman would pose a similar question to Ambassador Peter Galbraith. The question was similar, but the context was different. The difference in context helps explain why Ambassador Bartholomew could confidently offer his view to Minister Susak that the U.S. had no position and why Ambassador Galbraith felt compelled to seek expeditiously instructions on how to respond.

In April 1993, relations between the Bosnian Muslims and Croats were extremely tense, but full scale war had not yet broken out between the two groups. That would occur the following month. Ambassador Bartholomew knew that some arms were already flowing. He

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[16] U.S. Department of State cable No. Zagreb 1479, April 27, 1993 (C).

[17] Bartholomew Subcommittee Dep. at 38.

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also could surmise that the effects of his response would be negligible. In fact, due to "the outbreak of the war between the Bosnian Muslims and the Bosnian Croats, arms did not flow to Bosnia in great quantities after Special Envoy Bartholomew's exchange with Defense Minister Susak."[18] In contrast, in April 1994, the Bosnian Muslims and Croats had, weeks earlier, agreed to a fragile peace. Arms flows had been kept to a minimum during the previous year, and Croatia was seeking the U.S. view in the wake of the conclusion of the Federation Agreement. The Croatian question was, therefore, more significant than it had been the previous year.

Moreover, whereas Ambassador Bartholomew was approached over breakfast by a Croatian Minister, Ambassadors Galbraith and Redman were asked by the President of the country for the official U.S. view. As Ambassador Bartholomew testified: ". . . this was a breakfast conversation. . . this wasn't being put to me in terms of a formal demarche the way I understand later on the President of the Republic of Croatia did, in a formal setting to one or at least two Ambassadors in specifically asking for the United States Government position, et cetera. This was a breakfast conversation in which my reaction was being sought, and I gave a reaction which was totally in line with the general outlook of the administration at that time."[19]

The U.S. answer on both occasions turned out to be identical. U.S. policy was the same in April 1993 as it was in April 1994. Ambassador Bartholomew equates the two replies: "No instructions, no position."[20] He also noted that when Ambassador Redman told President

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[18] Select Subcommittee Deposition of Ambassador Peter Galbraith, Aug. 19, 1996, at 13 (hereinafter "Galbraith Subcommittee Dep.").

[19] Bartholomew Subcommittee Dep. at 24.

[20] Id. at 41.

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Tudjman that the United Stated did not want to be in a position of saying no to the Croatians,[21] "he said what I said. . . I mean, in the sense of not wanting to take a position on the thing."[22]

From the beginning of the Clinton Administration, the United States participated in Operation Sharp Guard (the NATO operation in the Adriatic primarily aimed at enforcing economic sanctions against Serbia) but did not undertake efforts to enforce the arms embargo against Bosnia. Senior officials at the CIA were aware that the Administration was not vigorous in enforcing the arms embargo against the Bosnian Muslims. Former Deputy Director for Intelligence, Douglas MacEachin. testified that "U.S. policy, in terms of constraining arms shipments into Bosnia from the Croatian side had never been pursued with the same vigor that they had been on the Serbian side."[23]

The Bartholomew advice delivered one year prior to the meeting among Ambassador Galbraith, Special Envoy Redman and President Tudjman represented the first indication by a senior U.S. Government official that enforcement of the embargo would not be pursued vigorously.

A Call to Action in Bosnia.

In February 1994, a mortar attack on Sarajevo's marketplace led to renewed United States diplomatic activity on Bosnia. Already deeply engaged in a parallel but separate effort to end the

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[21] Redman Subcommittee Dep. at 51.

[22] Bartholomew Subcommittee Dep. at 41.

[23] Select Subcommittee Deposition of Doug MacEachin, Sept. 6, 1996. at 58 (hereinafter "MacEachin Subcommittee. Dep.").

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vicious fighting between Bosnian Muslims and Croats, the Clinton Administration spearheaded the successful effort to issue a NATO ultimatum to enforce a weapons exclusion zone around Sarajevo. At the same time, President Clinton reiterated United States interests in Bosnia. The policy of the United States toward Bosnia was intended to help prevent the Bosnian conflict from becoming a broader European conflict, maintain NATO as a credible force for peace in the post-Cold War era, help stem the de-stabilizing flows of refugees in the region, and stop the strangulation of Sarajevo and the slaughter of innocents.[24]

Unfortunately, the United States had few good choices in pursuing its objectives in early 1994. The first option was to increase U.S. military involvement in the conflict. The second option was to lift the arms embargo multilaterally. The third option was to lift the arms embargo unilaterally. The first option had the obvious and significant downside of committing U.S. troops to a combat situation and was rejected on the grounds that it was unlikely to command or sustain public support. The second option had to be abandoned when the Administration was unable to garner the support of the allies for such an approach. The third and only remaining option, preferred by a growing number in Congress, was opposed by the Administration for fear that it would lead to the withdrawal of UNPROFOR, the abandonment of the U.N. humanitarian mission in Bosnia, the flouting of U.N. embargoes by other countries, and the Americanization of the conflict.[25]

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[24] President Clinton's weekly radio address, Feb. 19, 1994, as reported by Federal News Service transcript.

[25] Berger Subcommittee Int. At 4.

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Securing the Federation Agreement.

In March 1994, a positive new development re-energized the Clinton Administration's efforts. Bosnia's Muslims and Croats signed a federation charter in Washington, and ended a year of bloodshed between the two groups. The Federation Agreement had political, military and humanitarian significance. In addition to ending the fighting, the Agreement freed Bosnian and Croat forces to direct their military and political attention towards the Bosnian Serbs, opened the way for increased aid supplies to pass through Croatian territory to Bosnia, and reduced the level of human rights violations.

According to the former Special Envoy to the Former Yugoslavia, Charles Redman, who was the principal negotiator of the Federation Agreement, the primary benefit of the Federation was to stop the war which would save lives, strengthen the hand of the Bosnian government through the strategic alliance, and keep the Croatians on the right side. The real strategic objective, however, according to Redman "was to form the basis that we could build on for an overall agreement in Bosnia." Once the Federation was formed, Redman testified that he "immediately went back to work to try to contact then the Bosnian-Serb leadership to see if we could then build on that into an overall Bosnian settlement."[26]

The war between the Muslims and Croats had produced some of the most brutal fighting of the Balkan war, and had cost thousands of lives. The Federation Agreement represented the first step to an overall peace between the combatants. However, it was a "fragile animal"[27] that

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[26] Redman Subcommittee Dep. at 27.

[27] Id. at 35.

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could collapse unless nurtured carefully. Keeping the Federation together had to be added to the United States policy objectives stated by President Clinton the previous month. [28] Special Envoy Charles Redman testified that distrust existed between the Croats and Muslims even as they became closer because we could not "just . . . put them together in a federation and suddenly they forgot the past." [29]

Pressure to Lift the Embargo.

In early 1994, the Administration was faced with additional pressure to "do something" in response to the Serbs' continued siege of Sarajevo and attacks on civilians in the U.N. declared safe haven of Gorazde. Members of Congress, the press, and the American public, largely sympathetic to the plight of the Muslims, began to step up calls for lifting the arms embargo.[30] Throughout the spring and summer of 1994, Congress voted several times on measures that demonstrated full support for the termination of the embargo. Although a consensus formed on the need to lift the embargo, the question of whether it should be done unilaterally or multilaterally remained. [31]

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[28] Id. at 37.

[29] Id. at 36.

[30] The Majority asserts that Ambassador Galbraith made it clear that he was sympathetic to the plight of the Bosnian Muslims and that he was convinced that the Bosnian Muslims were desperately in need of weaponry. Majority Report, at 77-78. His views were, in fact, consistent with those of a majority of those in Congress.

[31] See Chapter One, Section Three for a more detailed discussion of Congressional action.

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The Administration rejected calls to go it alone in Bosnia. At a news conference on April 20, 1994, President Clinton described the situation in Sarajevo, Gorazde and elsewhere in Bosnia as "increasingly grim" and a "setback for the momentum achieved in recent months," but he placed a significant premium on "working with our allies, the Russians, and others" to "help the warring parties in Bosnia to reach a negotiated settlement."[32] U.S. leadership and allied solidarity had yielded some small, but significant steps in Bosnia. Secretary of State Christopher testified that the effectiveness of a NATO ultimatum to place all heavy weapons threatening Sarajevo under United Nations control or to remove the heavy weapons to a twenty kilometer exclusion zone around the city was due in large measure to the firmness and solidarity of the NATO alliance which was led in this instance by the United States.[33] The allies also shared the U.S. goal of creating and maintaining a federation between the Bosnians Muslims and Croats as an instrument to maintain the peace between Bosnian Muslims and Croats and provide the basis for a quicker settlement to stop the war.[34]

The Administration was committed to actions and policies that reduced to a minimum the potential for a withdrawal from Bosnia by UNPROFOR. For purposes of the Select Subcommittee investigation, the debate over unilaterally lifting the embargo need not be rehashed. The depth of opposition to a unilateral lift within the Administration is important to

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[32] The President's News Conference, Public papers of the President, Apr. 20, 1994.

[33] Hearing on Foreign Policy Overview and Budgetary Resources, 103d Congress., 2d Sess. (1994)(statement of Warren Christopher, U.S. Secretary of State to the Senate Committee on Foreign Relations, Feb. 23, 1994, at 6).

[34] Redman Subcommittee Dep. at 80.

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note, however, because it influenced how the Administration would respond to the Croatian question. The Administration believed a withdrawal would expose the Bosnian Muslim military and civilian population to certain death and destruction and create a humanitarian and military vacuum which U.S. troops might have been forced to fill. The Clinton Administration also believed that an UNPROFOR withdrawal would increase the likelihood that U.S. ground forces would be required to live up to the longstanding U.S. commitment entered into by the Bush Administration to help the NATO allies extract their troops if and when such an extraction became necessary.[35]

On April 20, President Clinton outlined his concerns about a unilateral lifting of the embargo:

> First, I would say that if we ignore a United Nations embargo because we think it has no moral basis or even any legal validity but everyone else feels contrary, then what is to stop our United Nations allies from ignoring embargoes that we like, such as the embargo against Saddam Hussein?. . . Secondly, what are the practical problems with raising the arms embargo? Do the Croats, who now have this agreement with the Muslims, support it? Will it be facilitated? How long would it take to get there? Would that increase Serb aggression in the short run while we're waiting for the arms to be delivered? There are a lot of practical problems with it. Do I favor lifting it? I do. Do I believe the allies with whom we are working now would vote to support it? I don't.[36]

In June, Secretary Christopher outlined what the Administration, in cooperation with the NATO allies, had accomplished in Bosnia. An agreement had been negotiated between the Bosnian Muslims and the Croats to end their year-long war, the shelling of Sarajevo had ceased, and the exclusion zones around Sarajevo and Gorazde were being enforced. The continuing violence, he said, made "it vital that the parties come to a political settlement." The Secretary

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[35] Berger Subcommittee Int. at 4.

[36] President's News Conference, Apr. 20, 1994.

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emphasized the importance of working with Russia and other European partners in the Contact Group on a proposal to form the basis for a negotiated settlement. Secretary Christopher testified that

> "it would be a tragic mistake to undermine the settlement process which is now quite promising; to undermine it by unilaterally lifting the arms embargo at this moment. That would break the cohesion of the NATO alliance." Secretary Christopher, asserting U.S. leadership in ensuring that other embargoes were maintained, continued: " It could lead to a general collapse of U.N. sanctions as an effective instrument in international affairs, and it could undermine our efforts in such situations as Iraq and Libya."[37]

Of course, many in Congress believed equally strongly that the United States had a moral obligation to help the Bosnians, and that conditioning U.S. policy on a consensus among our allies made neither good political nor good military sense. Many were calling for a lifting of the arms embargo and, for some of these Members, the immediate objective was using United States air power to force a Bosnian Serb withdrawal from the threatened Bosnian population and areas and forcing the Serbs to pay a price for its aggression.

The Croatian Question -- 1994

In the months prior to April 1994, contact between the Iranians, Bosnians, and Croatians increased including, in particular, discussion of trade relations and arms deals.[38] The discussions intensified with the signing of the Federation Agreement. A memo produced by the State Department Intelligence and Research Bureau in November 1993, foreshadowed what was to occur a few short months later. [redacted]

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[37] (Senate Foreign Relations Committee, June 30, 1994, transcript pp.11- 12)

[38] See Chapter Three, Section One for discussion of Iranian presence in Bosnia.

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[redacted] By the spring of 1994, those conditions appeared to be in place. [redacted]

The question posed by President Tudjman to Ambassador Peter Galbraith shortly after the signing of the Federation Agreement echoed almost exactly the question put to Special Envoy Bartholomew one year earlier, "Would the U.S. object if Croatia were to allow weapons to transit Croatia en route to Bosnia?" The question came amidst ongoing discussions within the Administration on how to respond to the Bosnian crisis, and more specifically, how to address the arms embargo issue. The Administration response was not in lieu of a decision on lift, and indeed, the lift debate continued throughout the summer in the Congress and in the press.

Administration policy makers outlined three options in answering President Tudjman. The first option was to say that the United States objected. The second option was to say that the United States did not object. The third was to say that the United States had no instructions.[40] Deputy Secretary Talbott testified that the "no instructions" option was a diplomatic way of saying that we neither approved of nor objected to what the Croatians were proposing.[41] Deputy Assistant Secretary Vershbow testified that "no instructions" was a "way to neither endorse nor

[redacted]

[40] Select Subcommittee Deposition of Strobe Talbott Sept. 5, 1996, at 42-43 (hereinafter "Talbott Subcommittee. Dep.") Berger Subcommittee Int. at 4.

[41] SSCI Deposition of Deputy Secretary Strobe Talbott, Apr. 23, 1996, at 21.

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approve of something."[42]

The downside to the "no instructions" response was the likelihood that Iran would be a probable supplier. Deputy Secretary Talbott testified that:

> [A]fter careful consideration we decided that the consequences of any other answer would be worse. If we had said yes to the Croatians, that is, if we had explicitly, affirmatively approved the transshipment it would have put us in the position of actively and unilaterally supporting a violation of the arms embargo. The public disclosure of such a posture would have caused severe strains with our allies who had troops on the ground in Bosnia as part of UNPROFOR and who naturally were giving priority to the safety of their own people on the ground.[43]

If the allies had discovered that the United States had endorsed the shipments, a withdrawal of UNPROFOR might have been triggered. Withdrawal could have required a substantial U.S. troop deployment as part of a very dangerous and costly NATO extraction effort. [44]

On the other hand, saying no to the Croatian request also would have had negative consequences. If, as a result of explicit U.S. disapproval of the transshipments, the Croatian government had shut down the arms pipeline; the Federation of Muslims and Croats would have been undermined and perhaps destroyed. In addition, the objection might very well have denied the Muslims the arms essential to their survival.[45]

The "no instructions" response avoided these serious problems and embodied existing policy. According to Deputy Secretary Talbott:

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[42] Vershbow Subcommittee Dep., at 30.

[43] Talbott SSCI Dep. at 20-21; Berger at Subcommittee Int. at 4.

[44] Id. at 21.

[45] Talbott Select Subcommittee Dep. at 43.

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> It is our honest judgment that the exchange that we had with the Croatians in April 1994 did not constitute a change in policy. It was a specific confidential diplomatic exchange that was consistent with and supportive of a policy that had been in place for some time. . .The back and forth with the Croatians that we are discussing here was totally consistent with and supportive of that policy.[46]

The "no instructions" response neither signaled a change in the United States reaction towards arms shipments through Croatia, nor signaled a change in the United States' compliance with the embargo. In fact, the "no instructions" response was virtually identical to the response by Special Envoy Bartholomew to Defense Minister Susak one year earlier.

The Administration believed that the Croats would maintain tight control on the type of weapons which were being shipped to Bosnia, and that they would not allow weapons which it considered a threat to Croatia to enter Bosnia.[47] Ambassador Galbraith testified that the United States had no control over the arms shipments to Bosnia, although the United States was interested in collecting as much information as possible:

> (W)hat went in was overwhelmingly, perhaps exclusively small arms and weapons that were intended to enable the Bosnian Army to defend itself and the Bosnians to survive. And the Croats had no interest in the Bosnians acquiring any significant offensive or any significant heavy weapon, slash high tech weapons capability.[48]

As the [redacted] testified, the decision to allow transshipments was a "double edged sword" for the Croats, and "the Croats were worried about what sorts of weapons the Muslim forces would get and specifically they didn't want heavy weapons to get to the Muslims because

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[46] Talbott SSCI Dep. at 36-37.

[47] Vershbow Subcommittee Dep. at 114-15.

[48] Galbraith Subcommittee Dep. at 76-77.

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they feared they would ultimately be used against the Croats."[49]

In fact, the Bosnian Croats advantage in and control of weapons had been a factor in the outbreak of war between the Bosnian Croats and Muslims the previous year. Croatian forces in Bosnia could rely on their patrons in Zagreb for weapons supplies, whereas the Bosnian Muslims were at Zagreb's mercy. U.S. officials were concerned that denying the Bosnians weapons might lead to a break-down of the Federation and a resumption of war.[50]

In instructing Ambassador Galbraith to tell the Croatian Government that he had "no instructions" with regard to Croatia allowing arms to transit Croatia en route to Bosnia, the Clinton Administration walked a fine line between being sensitive to the allies' concerns on the one hand, and not blocking the means of Bosnian survival on the other.

The Downside -- Iran.

In considering how to respond to President Tudjman's question, the Administration was aware that Iran had been supplying arms and, absent a clear signal to oppose further transshipment of weapons, would continue to supply arms to the Bosnian Muslims. Administration officials acknowledge continuation of the "Iranian connection" was the most significant downside to the no instructions response.[51]

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[49] Select Subcommittee Deposition of [redacted] Aug. 9. 1996, at 147-48 (hereinafter [redacted] Subcommittee Dep.").

[50] Galbraith Subcommittee Dep. at 27.

[51] Talbott Select Subcommittee Dep. at 34. For a discussion of the extent to which Iran was involved in the region between 1991- 1996, see Chapter Three. Section One.

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As discussed previously, the Iranian arms flow was not triggered by the Administration's "no instructions" response.

> Some believe, incorrectly, that our decision opened the way to Iranian influence in Bosnia. By April of 1994, there were hundreds of Iranian mujahideen and Revolutionary Guards in Bosnia. So the Croatians' question to us in April of 94 was not an invitation to open a door that had been closed to the Iranians. That door was already open. Had we tried to slam it shut, we might very well have also shut down the relationship that was developing between Croatia and the Federation. And that result could have, I believe almost certainly would have, kept us from ever getting to Dayton.[52]

Iran was, moreover, just one of several countries poised to increase the supply and financing of weapons to Bosnia in the wake of the Federation Agreement. President Tudjman's question was a generic one. "The question from Tudjman was not can we transship Iranian[53] arms, it was can we tranship arms. And we were witting of course to the fact that a significant portion of those arms were Iranian, but it was not Iran only."[54]

According to Assistant Secretary Richard Holbrooke, the Administration was faced with a set of "lousy choices."[55]

> As we negotiated we often thought of historical analogies. The one that came to mind here was Winston Churchill's famous comments about why Britain made common cause with Stalin against Hitler. I don't want to put this up into that same level of history. But it was a legitimate decision for Churchill and he knew full well the consequences. Here at a much smaller scale, this was done. . . and as soon as the cease fire was in place, as

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[52] Talbott SSCI Dep. at 22.

[53] Emphasis added.

[54] Talbott Subcommittee Dep. at 48.

[55] SSCI Hearing, Statement of Assistant Secretary Richard Holbrooke, May 21, 1996, at 48 (hereinafter "Holbrooke SSCI Dep.").

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soon as we got to Dayton, we dealt with it. And it has been dealt with."[56]

The Holbrooke reference to dealing with it concerns the Dayton requirement that foreign forces leave Bosnia as a condition precedent to United States "equip and train" efforts. In an equally apt analogy, Holbrooke testified: "When the patient is dying, you first give him oxygen and then worry about the source of the oxygen later. And those Iranian shipments. . . kept the patient alive."[57]

The Allies.

In the spring of 1994, there were more than 14,300 UNPROFOR troops on the ground in Bosnia and another 14,500 in Croatia. Of these, more than 15,000 were from NATO countries, and the bulk of those were from Britain and France. While the Clinton Administration favored lifting the arms embargo, the allies were adamantly opposed to terminating the embargo. There was a particular concern among the allies that the Bosnian Serbs might target NATO troops if weapons from a NATO country were seen to be reaching the Bosnian Muslims. According to U.S. Ambassador to NATO Robert Hunter, the allies "fear(ed) that weapons would reach forces and they might be used against their troops, or in any event, lead to an escalation and make anyone associated with NATO more vulnerable."[58] In public testimony before the Senate Armed Services Committee in June 1994, representatives of the defense ministries of NATO countries

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[56] Id. at 50.

[57] Holbrooke Subcommittee Dep. at 50.

[58] Select Subcommittee Deposition of Ambassador Robert Hunter, at 40 (hereinafter "Hunter Subcommittee Dep.").

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with troops on the ground (Denmark, France, Spain, and the United Kingdom) opposed the lifting of the arms embargo. The witnesses testified that the lifting of the embargo would force UNPROFOR to withdraw and would inevitably lead to increased U.S. involvement in the conflict. [59]

The Administration took into account allied concerns when deciding how to respond to President Tudjman's question. Sensitive to allied reaction, the Administration sought to keep the exchange between President Tudjman and Ambassadors Redman and Galbraith quiet. According to Strobe Talbott, "we were worried as hell about leaks. . ." [60]

Special Envoy Redman testified that despite the fact that the "no instructions" response confirmed what was already U.S. policy, discretion about the exchange that he and Ambassador Galbraith had with President Tudjman was critical:

> (I)t had implications for our dealings with our allies, because they knew we were trying to lift the arms embargo. They knew that arms were flowing to the Bosnian government before this decision as well as after this decision. But it was still important. And it was obviously important to them, because it actually played out this way, whereas they had said that UNPROFOR would be out of the country if the United States unilaterally lifted the arms embargo. When all of these reports which started to flow publicly shortly thereafter, and we shared that information with the allies as well, they didn't make those threats and they didn't pull out of UNPROFOR. So it was to me a very important distinction that we had not, ourselves, said we are going to do it and do it. It [arms flows] did happen to be happening. So it was important, I think that it be handled in a discreet way.[61]

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[59] "Impact of a Unilateral United States Lifting of the Arms Embargo on the Government of Bosnia-Herzegovina," Hearing before the Committee on Armed Services, United States Senate, One Hundred Third congress, Second session, June 23, 1994, at 1-21.

[60] Talbott Subcommittee Dep. at 46.

[61] Redman Subcommittee Dep. at 58-59.

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While the allies might not have known about the particular exchange that occurred in April 1994, they did become aware of increased arms flows to the Bosnian Muslims. Moreover, the allies, like the United States, did not object to the weapons transfers. Ambassador Galbraith recalled discussing the issue of arms transfers with his European colleagues -- most likely the Russian and German ambassadors-- and perhaps the British and French ambassadors:

> (T)here had been press stories suggesting that arms were. . . flowing through Croatia to the Bosnians and noting that the United States was looking the other way, winking, nodding, whatever the terminology. And I remember this coming up at some occasion which I was with the other ambassadors and. . . I simply took note of this and I said, have any of you guys objected? And what I remember well is that not one of them had ever objected. Not one of their governments had issued a demarche to the Croatian Government for its role in facilitating the transit of weapons to the Bosnian Government. And I made note that, as I recall it, that their position was identical to ours.[62]

The allies were prepared to live with the consequences of the "no instructions" response; had they been informed of the exchange, however, the allies might have been obliged to protest.

Additional British Concerns.

The British Government, however, did share their concerns about the increase in arms shipments from Middle Eastern countries to Bosnia with the United States government. A primary British concern appeared to be that heavy weapons, which could pose an increased threat to allied troops, not reach Bosnia. The concerns never rose beyond the level of diplomatic discussions, and the British did not raise the issue publicly, suggesting that they did not judge the Middle Eastern arms flows to be of a level significant enough to threaten their troops. Nor did the fact that the United States refrained from objecting to the shipments stand in the way of the

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[62] Galbraith Subcommittee Dep. at 116.

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allied diplomatic efforts which culminated in the Dayton accords.

Reaction to Unilateral Lift and to Nunn-Mitchell.

The allies' reaction to proposals for unilateral lift and to the adoption of the Nunn-Mitchell amendment stand in sharp contrast to their reaction to the clandestine flow of weapons from Middle Eastern countries through Croatia to Bosnia. A series of articles in the European press is highly critical of the U.S. decision to prohibit the use of Department of Defense funds for enforcement of the arms embargo. For example, "Alain Juppe, French foreign minister, said the U.S. withdrawal from enforcing the arms embargo against Bosnia favored those who wanted war against those who wanted peace. Mr. Francois Leotard, the French defense minister, threatened to withdraw French troops from Bosnia in the event of 'one more step' in the wrong direction."[63] The French Presidential spokesman Jean Musitelli went further: "We regret that our American allies have acted unilaterally, and without giving much concern for their allies on the ground."[64] British Foreign Secretary Douglas Hurd described the expected United States unilateral move as "a worrying development" while Danish Foreign Minister Niels Helveg Petersen described a lifting of the embargo as a "bad signal."[65]

The implementation of the Nunn-Mitchell amendment also fueled speculation among the

[63] Lionel Barber and Bruce Clark, French attack US policy on Bosnia: Row highlights drifting apart of U.S and its European allies, The Financial Times, Nov. 17, 1994, at 2.

[64] France, Britain Slam US over Embargo Pullout, Agence France Presse, Nov. 18, 1994.

[65] European allies irritated by U.S. Bosnia Decision, Deutsche Presse-Agentur, Nov. 11, 1994.

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allies that the U.S. was actively involved in a covert operation to help the Bosnians. "America's decision to stop enforcing the arms embargo against the Bosnian Muslims has split NATO and opened a Pandora's box of accusations about the U.S. secret agenda in the Balkans"[66] and

> [R]ecent reports in Europe that the United States is covertly aiding the Bosnian Muslims are strongly denied by American officials and appear to be inaccurate in many details. The frequency of these stories, based on claims by unidentified European officials[67] and United Nations officers, increased last week after the Clinton Administration decided to stop enforcing a regional arms embargo against Bosnia's Muslim-led government.[68]

U.S. Ambassador to NATO Robert Hunter said that "There was a concern about the time of the Nunn-Mitchell that the United States was going to leave allies vulnerable to the movement of arms."[69] A primary concern of the allies appears to be that the prominent U.S. role in unilateral lift and/or Nunn-Mitchell threatened the cohesion of the alliance. The gist of those concerns was that "this would bring their troops under greater threat. Some of them, like the French, also argued that this showed the United States was violating the U.N. provisions and also was not pulling its weight as an ally."[70] In fact, the United States was not involved directly in weapons flows from the Middle East. Nor did the arms flows include heavy weapons of the kind that would constitute a grave threat to UNPROFOR troops on the ground.

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[66] Ed Vulliamy, America's Secret Bosnia Agenda, The Observer, Nov. 20, 1994, at 16.

[67] Secretary Christopher sent Undersecretary Tarnoff to Paris to reassure French officials that the United States was not supplying arms to the Bosnians, and to stem rumors of a U.S. covert operation. Select Subcommittee Deposition of Peter Tarnoff, Sept. 13, 1996, at 27-28. (hereinafter "Tarnoff Subcommittee Dep.")

[68] John Pomfret, U.S. Denies European Claims it is Aiding Bosnian Muslims, International Herald Tribune, Nov. 21, 1994.

[69] Hunter Subcommittee Dep. at 22.

[70] Id. at 43.

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It is also important to note that to the allies the issue of concern was arms shipments to the Bosnians and not the role of the Iranians in the arms shipments. Fourteen of the fifteen NATO allies have diplomatic relations with Iran. According to Ambassador Hunter, not all of our European allies share the U.S. goal of isolating Iran: "Some do to some degree and some believe in what they call, I guess, constructive engagement. Constructive dialogue is the phrase used by the Germans."[71] This difference in allies' views of Iran may explain why there is no evidence of European allies expressing specific concern that Iran was the source of some of the arms reaching Bosnia.

Privately, NATO allies expressed some dismay at the break in allied cohesion upon the revelation by the U.S. press in April 1996 of the "no instructions" response. Although Ambassador Hunter can recall no specific complaints or comments from NATO allies upon the publication in April 1996 of press reports about the "no instructions" response, he testified that he did receive some comments.

> If I recall correctly by the timing, the war was over, IFOR was deployed, IFOR was being successful, and it was a tenor of we are surprised you did this, you shouldn't have done it, but that is history, in the sense that it did not pose at that occasion of revelation, an ongoing threat to allied forces. [72]

Unlike the reaction to Nunn-Mitchell. European governments' public reaction to the press accounts was muted. The British Parliament, for example, did not raise the issue with British Ministers during the regular questioning period. European press accounts of the

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[71] Id. at 47.

[72] Id. at 50.

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revelation of the Middle East pipeline in April 1996 largely recount the Los Angeles Times stories and describe plans in the United States Congress to investigate the allegations. They offer little commentary, and do not include responses by European leaders."[1]

Results of United States Policy.

The weapons flow during 1994 and 1995 helped the Bosnians survive until such time as the circumstances were ripe for a negotiated peace. Weapons delivered to the Bosnians throughout 1994 and 1995 were probably not the decisive factor in bringing the Serbs to the negotiating table; weapons delivered to the Croatians may have been a more important factor. The Croatians were in fact, receiving a cut of at least one third of the weapons being sent to Bosnia. They were also engaged in arms deals of their own. Croatia had a stake in allowing weapons to transit its territory. The Croatians' goal was to "keep (the Bosnians) in the war or at least operating effectively and to tie down the Serbs. It's largely a question of geography in that the Croats' main goal was to retake the occupied parts of Croatia and the Serb forces where were linked to the Serb forces in Bosnia. The degree to which the Croats could pin those forces in place would make it easier to launch their attack in occupied Croatia."[74] In the summer of 1995. the Croatians did retake those occupied territories, and together with Muslim forces, did put

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[73] Gingrich announces probe of Iranian arms shipments to Bosnia, Agence France Presse. Apr. 24, 1996; Iranian Arms to Bosnia was 'acceptable risk': Pentagon, Agence France Presse. Apr. 25, 1996; Tom Rhodes, Clinton Approved Iran's Secret Arms Deals with Bosnia, The Times, Apr. 6, 1996. Rupert Cornwell and Mary Dejevsky, Clinton Hit by Row over Iranian Arms, The Independent, Apr. 8, 1996, at 10.

[74] [redacted] Subcommittee Dep. at 148. [redacted]

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pressure on Serb forces in Bosnia. These factors, combined with NATO air strikes against the Serbs, created incentives for the Serbs to cut a deal

According to Richard Holbrooke:

> (T)he fundamental policy was absolutely correct, and without it, the Bosnian government would never have survived the winter of 1994-95, and we never would have gotten to Dayton. It is as simple as that. Sarajevo was in desperate shape at that point, having barely survived its war with the Croats, and being under continual assault from the Serbs[75] . . . Policy sometimes offers you only lousy choices. And we took the least lousy choice and I believe that the outcome more than justified the decision . . . the record will show that the decision of April 94 resulted in the survival of the Bosnians through the winter of 94-95, and into the summer.[76]

In going no further than "no instructions" and remaining discreet, the United States avoided an allied break on Bosnia. Maintaining consensus among the NATO allies with respect to NATO air strikes and international sanctions on Serbia was no easy matter.[77] Had the United States gone further than "no instructions" and actually endorsed the shipping of weapons to Bosnia, the Clinton Administration believed the sometimes uneasy alliance over Bosnia might have collapsed.

The alliance did hold together over Bosnia, however. The United States, NATO, and other allied forces are serving side by side in IFOR and also are working together to implement the civilian aspects of the Dayton Accords. The IFOR arrangements are unprecedented and have been highly successful.[78]

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[75] Holbrooke SSCI Dep. at 26.

[76] Id. at 48-49.

[77] Hunter Subcommittee Dep. at 37.

[78] Hunter Subcommittee Dep. at 47.

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Why the Policy Worked.

> (I)n the wake of our 1994 April answer to the Croatians -- and I would contend partly as a consequence of it -- the following happened. The Bosnian armed forces held on and began to counterattack. The Federation survived to become a cornerstone of the Dayton Agreement. We averted a crisis in the alliance. UNPROFOR remained in place, providing humanitarian supplies and helping the Bosnians through another brutal winter. We bought time for a combination of American diplomacy, NATO air power, and Croatian and Bosnian military victories to reach an historic peace agreement under United States leadership in Dayton. The United States is leading an international effort to arm Bosnia today. The Iranian presence there is down to a handful and increasingly marginalized. . . . a tough decision turned out to be the right decision.[79]

* * * *

> It was Dayton that gave us a chance to get the Iranians out of Bosnia. And the Dayton accords, we insisted on and achieved a commitment to the removal of all foreign forces from Bosnia. While we remain concerned by any remaining Iranian influence in Bosnia to this day, and continue to insist that foreign forces leave the country, very substantial progress has been made on this issue, largely through determined American leadership.[80]

This much is clear. In 1994, Bosnia was embroiled in a bitter war that threatened to spill over to other parts of Europe. U.S. leadership helped bring an end to the fighting among the Bosnian Muslims, Croats, and Serbs, to the rape and torture, to the mass executions, and to the sniper attacks on civilians; it has helped create the conditions to build a new Bosnian state, and stopped the war from spreading. In early 1994, hundreds of Iranians were present in Bosnia and Croatia. Today, the Iranian fighters have been forced out.

The peace in Bosnia may be fragile, but it is simplistic and simply wrong to suggest, as does the Majority, that any tenuousness in the peace can be blamed on the "no instructions"

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[79] Talbott Subcommittee Dep. at 23-24.

[80] Talbott SSCI Dep. at 22.

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response.[91] If in the worst case scenario, the peace does not hold, it will be because of reasons far more complex than the U.S. delivery of a "no instructions" response to President Tudjman.

[91] Majority report at 194-95.

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Chapter One
Section Three

THE ROLE OF CONGRESS

The Administration did not develop its Bosnian policy in a vacuum. The Congress was involved actively in a public debate throughout the period of the arms embargo. However, the debate probably was most intense during late 1993 and into the fall of 1994. Like the Clinton Administration, the Congress was increasingly concerned about the situation on the ground in Bosnia. Like the Administration, the Congress had to choose between a series of difficult options. Like the Administration, the Congress wanted to end the arms embargo against Bosnia. But, unlike the Administration, many in Congress believed the United States should withdraw unilaterally from the arms embargo if the allies refused to end it multilaterally.

Congressional Action on the Arms Embargo.

As early as 1992, the United States Congress was on record in support of U.S. arms transfers to the Bosnian Government subsequent to the lifting of the arms embargo. In the summer of 1992, the Congress adopted the Biden amendment to the Fiscal Year ("FY") 1993 Foreign Operations, Export Financing, and Related Programs Appropriations Act,[1] authorizing the President, pursuant to a lifting of the United Nations embargo, to transfer $50 million in defense articles to the Bosnian government. In 1993, a similar amendment was adopted to the

[1] Fiscal Year 1993 Foreign Operations, Export Financing, and Related Programs Appropriations Act, P.L. 102-391.

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FY1994 Foreign Operations appropriations bill.[2] In 1993, however, calls to lift the international arms embargo against the Bosnian government -- or at least for the U.S. to provide arms to the Bosnians in spite of the embargo -- began to accelerate. In June, the House Foreign Affairs Committee adopted a Hyde amendment to the FY 1994 State Department authorization bill authorizing the President to provide $200 million in military equipment to the Bosnian government, in spite of the arms embargo. The Senate Foreign Relations Committee adopted a similar amendment to the FY 1994 foreign aid authorization bill, after considering an amendment by Senator Lugar to require unilateral termination of the embargo. Several Congressional resolutions considered in 1993 called for the multilateral lifting of the embargo as one part of an overall policy to bring an end to the war in Bosnia.[3]

In 1994, calls for the lifting of the arms embargo against Bosnia intensified. In January 1994, despite the strong opposition of the Administration, the Senate voted eighty-seven to nine in favor of a nonbinding Dole amendment to the State Department authorization bill[4] to terminate the United States participation in the arms embargo. The deteriorating situation in Bosnia, most notably the February shelling of the Sarajevo marketplace and the Serb siege of Gorazde in April 1994, led to continued pressure from Members of Congress from both parties to lift the arms embargo. Impatient with the pace of United States and European diplomatic activity, many

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[2] Fiscal Year 1994 Foreign Operations, Export Financing and Related Programs Appropriations Act, P.L. 103-87.

[3] Julie Kim and Dianne E. Rennack, Bosnia-Hercegovina Conflict and the 103d Congress: Policy Debates and Summary of Major Legislation, CRS Report 94-1008F, Dec.12, 1994, at 27-28.

[4] U.S. Department of State Authorization Act, P.L. 103-236

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Members concluded that the level of human rights violations in Bosnia had to be stopped even at the risk of damaging relations with our European allies.

Beginning in the spring of 1994, the Congress devoted an extraordinary amount of legislative and debate time to the arms embargo issue. In May 1994, Senators Dole and Lieberman introduced S. 2042, mandating the termination of the United States arms embargo on Bosnia and Hercegovina. The debate on S. 2042 made clear that Members were virtually unanimous about the need to lift the embargo, but divided about whether the United States should break ranks with the allies and lift the embargo unilaterally.[5]

United Nations Security Council Resolution 713 prohibited all member states from shipping arms to the countries of the former Yugoslavia. Subsequent U.N. Resolutions 740 and 787 called upon all members to enforce the embargo against shipments by other countries. The Dole-Lieberman measure purported to relieve the United States of its obligation under U.N. Security Resolution 713 and to end U.S. participation in enforcement activities. First, the Dole-Lieberman bill would have terminated the United States arms embargo against Bosnia. Second, the bill would have prohibited the President or any other member of the Executive branch from interfering with the transfer of arms to the Government of Bosnia. In effect, the measure would have allowed the United States to ship arms and would have prevented the United States from enforcing the embargo against any third country seeking to transfer weapons to Bosnia.[6] Senator Dole later modified the measure to eliminate the possibility that the nonenforcement of the arms

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[5] Cong. Rec. S5607-S5627 (daily ed. May 12, 1994).

[6] The measure also made clear that it should not be interpreted as an authorization for the deployment of U.S. troops to Bosnia for any purpose.

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embargo would inadvertently allow the transfer of nuclear or other advanced weapons to Bosnia. The modification provided that only conventional weapons appropriate to the self-defense of Bosnia would be allowed.[7] *At no time did the modification or the original measure make any attempt to exclude Iranian shipments or otherwise limit the source of weapons.*

Senate Majority Leader George Mitchell introduced an alternative amendment to S.2042 directing the President to seek the agreement of the NATO allies to terminate the embargo multilaterally, and to propose or support a United Nations Security Council resolution to lift the embargo. If the embargo were not lifted, the Mitchell amendment directed the President to consult with the Congress within five days regarding the unilateral lifting of the embargo. The amendment further instructed the President, upon the termination of the embargo, to ensure that appropriate military assistance was provided to Bosnia. The Mitchell amendment also approved and authorized the use of United States air power to implement the NATO exclusion zones around United Nations designated safe areas and to protect United Nations forces.

On May 12, after extensive debate, the Senate passed the Dole-Lieberman measure as well as the Mitchell amendment, by identical votes of 50 to 49, and proceeded to pass the underlying bill with the two conflicting measures, by voice vote. While the votes left no doubt that the Senate favored lifting the embargo, it sent a mixed message on whether the United States should do so unilaterally. The House Appropriations Committee rejected a Hoyer amendment to the FY 1995 Foreign Operations appropriations bill which would have barred funds for enforcement of the embargo. However, the House subsequently adopted a McCloskey Gilman

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[7] Cong. Rec. S 5415 (daily ed. May 10, 1994) (statement of Sen. Dole).

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amendment to the FY 1995 Defense authorization bill directing the President to terminate the arms embargo and authorizing up to $200 million in military assistance. An alternative amendment sponsored by Representative Hamilton, supporting NATO and U.N. efforts to enhance Bosnia's ability to contribute to its defense was defeated.

The House debate on June 9, 1994, echoed the one that occurred in the Senate a few weeks earlier. Proponents of the McCloskey amendment argued that concerns about the situation on the ground in Bosnia should override any concern about the views of our NATO allies. Congressman Hyde argued that "America is too important and too moral a country to avert its eyes from genocide and ethnic cleansing. . ."[8] Opponents of the McCloskey amendment, including the Administration, argued that it would intensify the war, lead to the withdrawal of the United Nations which fed two out of every three Bosnians, end international humanitarian assistance, terminate the peace process, undermine U.N. sanctions worldwide, and risk Americanizing the war.[9] Congressman Hamilton warned that if the United States began supplying weapons, the Serbs might retaliate by targeting UNPROFOR, in which case:

> American forces will be called upon to rescue them. If our allies pull out troops, the fighting intensifies, and we will be called to help. We will be called upon to send weapons in, and we will be called upon for U.S. troops to help keep the delivery routes open. But in a larger sense, we become responsible for Bosnia's fate. Bosnia becomes a client. Our prestige and our power will have to be used to assure a Bosnian victory. We cannot go at it halfway.[10]

In a replay of the May debate, the Senate took up the arms embargo as part of its

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[8] Cong Rec. H4241 (daily ed. June 9, 1994) (statement of Rep. Hyde).

[9] Cong Rec. H4234 (daily ed. June 9, 1994) (statement of Rep. Hamilton).

[10] Id.

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consideration of the Defense authorization bill. On July 1, the Senate adopted by a vote of 52 to 48, a Nunn-Warner amendment endorsing the efforts of the contact group and expressing the Sense of Congress that if the Bosnian Serbs do not respond constructively to the peace negotiations, the President shall propose or support a U.N. Security Council resolution to terminate the arms embargo. On the same day, the Senate rejected by a vote of 50 to 50 a Dole-Lieberman amendment mandating a unilateral lifting of the arms embargo.

The FY 1995 Defense authorization bill became another vehicle for debate over the United States policy on the arms embargo. The Administration and a bipartisan group of Congressional Members wanted to make the multilateral lifting of the arms embargo a condition precedent to supplying the Bosnian Muslims. A bipartisan group of opponents wanted the United States to arm the Bosnian Muslims regardless of the views of the allies.

Because Members on both sides of the debate wanted arms to reach the Bosnian Muslims, the issue of stopping arms from reaching Bosnia never arose. In effect, the September 1992 decision by the Bush Administration to stop arms from reaching the Bosnians in order to demilitarize the region was ignored during the Congressional debate on the arms embargo.

The Nunn-Mitchell Amendment.

In seeking to reconcile the conflicting provisions on the arms embargo, the conference committee on the Defense authorization bill adopted language providing that the United States would seek a United Nations resolution ending the arms embargo by the end of October and commence supplying weapons to the Bosnian Muslims if the Serbs did not agree to the peace plan by October 15, 1994. If the United Nations did not terminate the embargo, no U.S. funds

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could be used to enforce the arms embargo after November 15. The compromise language also required the President to submit plans to, and consult with, Congress on lifting the arms embargo unilaterally and on providing training to Bosnian Government forces outside the territory of Bosnia. The conference report for H.R. 4301 was approved by the House on August 17, 1994, the Senate on September 13, and the bill was signed by the President on October 5. Thus, as early as August 17, approximately three and one-half months after the Galbraith and Redman meeting with President Tudjman, the House of Representatives had voted to eliminate United States financial support for enforcement of the embargo against the Bosnian Muslims and to set in place a process that could culminate in the shipment of United States arms to Bosnia.

In the meantime, the Senate adopted an amendment to the Defense appropriations bill (H.R. 4650) mandating the unilateral lifting of the embargo on August 11. The measure, sponsored by Senators Dole and Lieberman passed by a vote of 58 to 42. A Nunn-Mitchell amendment similar to the language adopted by the Defense authorization conference also passed by a vote of 56 to 44. At no time during the debate on the Defense authorization bill or the Defense appropriations bill did any Member seek to impose or even discuss a mechanism to limit the flow of arms to Bosnia. Nor did the debate on the Nunn-Mitchell language ever address the issue of Iranian or other sources of weapons flowing to Bosnia. The language of the Nunn-Mitchell amendment prohibits the use of Defense Department funds for enforcing the arms embargo against Bosnia -- regardless of whether those weapons come from Iran or any other country. The complete and total absence of any mention of an Iranian role in arms shipments should not suggest that Congress was either unconcerned or unaware of the Iranian role. Rather, the debate demonstrates that the priority of the Congress, like that of the Clinton Administration,

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was to get arms to Bosnia.

Both the Nunn-Mitchell and the Dole-Lieberman provisions were dropped in conference -- in part because the Nunn-Mitchell language was already included in the Defense authorization bill that was on its way to becoming law. Assistant Secretary of State Richard Holbrooke commented that the Nunn-Mitchell amendment "actually required the Administration to act in a way that . . . is completely consistent with the Galbraith-Tudjman conversation. That is, under Nunn-Mitchell, no funds, personnel, or United States activities of any sort could be used to enforce the arms embargo." He continued: "I would say that basically what Galbraith did was consistent with the law as it was about to be passed."[11]

A Continuing Push to Lift the Embargo -- 1995

In 1995, the debate over unilateral lift continued. In January, Senators Dole and Lieberman introduced a bill to lift the arms embargo against Bosnia.[12] An identical version of the bill was introduced in the House by Representative Chris Smith in March.[13] In June, the House approved an amendment to H.R. 1561 containing provisions similar to those in the Dole Lieberman bill. The Senate approved S. 21 on July 26 by a vote of 69 to 29. On August 1, the House approved S. 21 by a vote of 298 to 128. President Clinton vetoed S. 21 on August 11,

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[11] Hearing on U.S. Actions Regarding Iranian Arms Shipments into Bosnia before the Senate Select Committee on Intelligence, 104th Cong. 30 (1996) (statement of Assistant Secretary Richard Holbrooke).

[12] S. 21, 104th Cong. (1996).

[13] H.R. 1172, 104th Cong. (1996).

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arguing that the bill would undermine chances for peace, lead to a wider war, and likely result in the rapid withdrawal of UNPROFOR from Bosnia, with U.S. military support.[14] Momentum toward a settlement increased by the end of the summer. After NATO launched its air strike operation against Bosnian Serb military targets in late August 1995, Senator Dole postponed Senate action on overriding the President's veto.

[14] Julie Kim, Bosnia: Legislation on Lifting the Arms Embargo, 104th Congress, 1st Session, CRS Report 96-347 F, Apr. 17, 1996, at 1-2.

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Chapter One
Section Four

PUBLIC AND CONGRESSIONAL KNOWLEDGE OF ARMS FLOWS

Public Statements by the Administration.

From 1993 through 1995, members of the Administration were asked whether the United States abided by the U.N. Security Council Resolutions. As discussed elsewhere in the Minority Views,[15] the United States had a legal obligation to refrain from providing any weapons and military equipment to the countries of the FRY.[16] The United States had no international legal obligation to enforce the embargo against third countries, however.[17] In practice, the Administration carefully walked the line between that which it was prohibited from doing and that which it was simply called upon to do.

As the Administration was not required to enforce the embargo against third countries, it chose not to do so. However, the Administration did not wish to announce or confirm the policy of not objecting to arms shipped to Bosnia by third countries. To do so risked exposing the Bosnian Muslims to even more slaughter. Consequently, the Administration sought to walk the fine line of not sending United States arms, but not objecting to arms sent by third countries.

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[15] See Minority Report, for a discussion of United States Obligations Under International Law, at Section 1, Chapter 5.

[16] United Nations Security Council Resolution 713, 1991.

[17] U.N. Security Council Resolutions 740, 787 (1991); see also Minority Report discussion of United States Obligations Under International Law, at Section 1, Chapter 5. Some Members of Congress also argued that under Article 51 of the United Nations Charter, the Bosnian Government had the inherent right to self-defense and that the arms embargo therefore did not apply.

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The Majority Report identifies several instances when the Administration did not walk the fine line perfectly.[18] Most, if not all of the examples, occur in 1995 following enactment of the Nunn-Mitchell amendment which, in essence, prohibited the United States Government from enforcing the arms embargo with respect to Bosnia. Thus, any references made by Administration spokespersons about abiding by the U.N. Security Resolutions applied only to U.N. Security Council Resolution 713.

However, the United States also had international political reasons for avoiding a confirmation of U.S. nonenforcement of third country compliance with the embargo (at least in the six months before enactment of the Nunn-Mitchell amendment). To have confirmed publicly U.S. policy with respect to nonenforcement would have led to a confrontation with the allies. Therefore, the Administration elected to ignore arms shipments to the Bosnian Muslims, but to refrain from making this decision public.

The United States did not, however, approve, permit or support arms shipments from Iran or any other country to Bosnia. The position followed by the Administration was very carefully and narrowly circumscribed: starting in 1993, the United States neither approved of nor opposed arms transshipments through Croatia to Bosnia from any source, including Iran. By hewing to this policy line, the United States neither violated the U.N. Security Council Resolution nor triggered a confrontation with the allies.

As the Majority Report points out, in the months prior to enactment of the Nunn-Mitchell amendment, two Administration officials made statements that the United States was enforcing

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[18] Majority Report at 33.

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the embargo. The other incidents referred to in the Majority Report involve news accounts quoting unnamed Administration officials, and three sets of Administration press guidance that may never have been used. The Majority concludes, based upon these examples, that the United States falsely and consistently denied any U.S. role in the Iranian arms pipeline. The fact is that the United States had no role in the Iranian arms pipeline. Therefore any and all such denials of such a role would be accurate. The Minority would agree that the two statements made by the State Department that the U.S. expected the arms embargo to be respected by third countries were not accurate reflections of United States policy, but the Minority does not think that two offhand statements by State Department officials amount to pattern or practice of misleading statements.

Moreover, the Minority categorically rejects a number of the characterizations of Administration comments made by the Majority. Administration officials did say that the United States was not covertly supplying arms or supporting the supply of arms to the Bosnian government.[19] National Security Council press guidance did state that the U.S. did not cooperate, coordinate or consult with any other government regarding the provision of arms to the Bosnians.[20] Both statements are true. As discussed elsewhere in the Minority Views, the "no instructions" response did not amount to either supplying or supporting the supply of arms, and certainly cannot be characterized as cooperation, coordination or consultation with the Government of Croatia or any other government to provide arms to the Bosnians.

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[19] Majority Report at 34.

[20] Id.

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On April 20, 1994, President Clinton addressed the Bosnian situation at a news conference. The President's statement was devoted to making the case for stronger action against Serb aggression. He spoke of the siege on Gorazde and the shelling of Sarajevo.

President Clinton identified the United States objective: to make the Serbs pay a higher price for their acts of violence in order to push them to the negotiating table. The President continued, "in pursuit of that policy, we must take further action."[21] The President acknowledged the need to work with the United States allies, but it was clear that he expected the United States to be leading the effort to rein in Serb aggression by word and action.

Of course, President Clinton was not aware of the query which President Tudjman would deliver to Ambassador Galbraith the following week. Nevertheless, the remarks made by the President on April 20 demonstrate a commitment by the United States to do what it could to help the Bosnian Muslims so long as the United Nations Security Council Resolution was not violated and the allies did not threaten to pull out of the peacekeeping force.

Public information.

Information that arms were flowing to Bosnia was readily available to Members of Congress and their staffs.[22] Readers of The Washington Post and viewers of CNN were informed in the spring of 1994 that Iran was one of the countries supplying weapons to the

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[21] Clinton News Conference, AP Online, Apr. 20, 1994.

[22] For a list of press accounts of arms flows to Bosnia, see Appendix F.

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Bosnian Muslims.[23] Some news accounts noted that governments, including the United States Government, were turning a blind eye to the shipments.[24] Many of the news accounts were highly detailed. For example, an August 2, 1994, Washington Times piece contained a chart chronicling arms shipments to Serbia, Croatia, and Bosnia, from April 1992 to April 1994. During that period, Iran was reported to have shipped $20 million worth of arms to Bosnia and another $5 million worth of arms to Croatia. By contrast, the countries of the former Soviet Union were reported to have shipped $360 million in arms to Serbia, while Slovakia reportedly shipped $100 million in weapons.[25] From August 1992 to September 1994, well over a dozen articles describing leaks in the embargo appeared in major newspapers.[26] Many of these news stories ran on the front page.

During floor debate on legislation to lift the arms embargo on June 24, 1994, Senator John McCain expressed concern about reports of Iranian flows and read into the Congressional Record an article from that day's Washington Times chronicling Iranian arms deliveries to

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[23] John Pomfret, Iranian Ships Explosives to Bosnian Muslims; Embargo-Busting Cargo Also Aids Croatia, The Washington Post, May 13, 1994, at A1, A43; Ralph Begleiter, Weapons Flowing to Bosnia in Violation of U.N. Embargo, CNN, June 7, 1994.

[24] Bill Gertz, Iranian Weapons Sent Via Croatia; Aid to Muslims Gets U.S. 'Wink', Washington Times, Jun. 24, 1994, at A1.

[25] Paul Beaver, Iran uses Russian Planes to Supply Bosnian Muslim, Croatian Troops, Washington Times, Aug. 2, 1994, at A14.

[26] See Appendix F for a selected list of major press articles regarding leaks in the United Nations arms embargo.

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Bosnia.[27] In addition, on August 11, 1994, during the debate on the Nunn-Mitchell amendment to the Defense Department authorization bill, Senator Dole acknowledged awareness of intelligence reporting on arms shipments to Bosnia when he expressed concern that Nunn-Mitchell would continue to permit United States intelligence personnel, other than Defense intelligence personnel, to collect intelligence on arms shipments.[28] In June 1995, Senator Dole again referred to the Iranian shipments, acknowledged Administration knowledge of those shipments, and even suggested that the Bosnians were justified in receiving those shipments:

> The fact is the arms embargo has guaranteed that Iran is a key supplier of arms to Bosnia and administration officials have actually used that fact to argue that there is no need to lift the arms embargo. What other choices do the Bosnians have? They are going to find weapons where they can find weapons.[29]

Those who followed Bosnia issues more closely also could find reporting on the issue in the European press and in the Foreign Broadcast Information Service (FBIS) daily reports, an unclassified translation of foreign news articles and broadcasts published by the CIA.[30] Since 1991, FBIS carried at least 35 pieces chronicling the growing economic and political ties between Croatia, Bosnia, and Iran.

Intelligence information.

Intelligence reports made available to Congress also chronicled leaks in the arms

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[27] Bill Gertz, Iranian Weapons Sent Via Croatia; Aid to Muslims Gets U.S. 'Wink', The Washington Times, Jun. 24, 1994, at A1.

[28] Cong. Rec. S11265 (daily ed. Aug. 11, 1994) (statement of Sen. Dole).

[29] Cong. Rec. S7880 (daily ed. June 7, 1995) (statement of Sen. Dole).

[30] See Appendix F for a listing of foreign press reports.

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embargo. Products containing information on violations of the arms embargo included the National Intelligence Dailies ("NIDs"), the Military Intelligence Dailies ("MIDs"), daily and weekly situation reports prepared by the [redacted] Balkan Task Force ("BTF"), and periodic special reports. [31] Deputy Secretary Talbott told a Senate Committee that "you had a lot of the same information available to you that we were operating on within the Executive branch. . . I am referring to classified information about many things, but including the flow of Iranian arms into Bosnia that was generally available to the Congress more or less contemporaneously to when it was available to us." [32]

The National Intelligence Daily is provided on a regular basis to the Members and appropriately cleared staffs of eight Congressional Committees. In 1994, the Committees included the House Foreign Affairs Committee, the House Armed Services Committee, the House Intelligence Committee, the House Appropriations Committee Subcommittee on National Security, the Senate Foreign Relations Committee, the Senate Armed Services Committee, the Senate Intelligence Committee, and the Senate Appropriations Committee Subcommittee on Defense.[33] The House and Senate leadership and their appropriately cleared staffs also had access to these materials. In addition to the more than 120 Members of the House leadership and relevant Committees and the nearly 60 Members of the Senate leadership and relevant

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[31] See Appendix E for a list of dates of articles in the NIDS containing information on arms shipments to Bosnia.

[32] SSCI Hearing, Statement of Strobe Talbott, Sept. 1996, at 37 (Hereinafter "Talbott SSCI Dep.").

[33] Letter from David P. Holmes, Deputy Director of Congressional Affairs, to Michelle Maynard, (Oct. 8, 1996).

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committees to whom intelligence reports are made available on a daily basis. other Members of Congress can review the NIDs and other intelligence material upon request. In 1994, 520 House and Senate Committee staff members held the necessary clearances to review the NIDs and other highly classified intelligence products.

Between January 1994 and December 1995, [redacted] the NID carried reports of actual or arranged arms shipments to Bosnia; many of them specifically referred to Iranian shipments transiting Croatia en route to Bosnia. [34] [redacted] [35] The Bosnians were making these requests in the wake of the Federation Agreement. The Croatians, in turn, sought the United States view. The suggestions made by some that the request was initiated by United States government officials cannot be given any credence in light of the March and April intelligence reporting. [redacted]

Other intelligence products also carried reports of arms embargo violations. For example, from April 1994 through August 1995, information about actual arms shipments and/or Iranian activities in the region appeared in [redacted] of the Balkan Task Force's Daily Situation Reports. These reports were provided to the House and Senate Intelligence Committees, to the Subcommittee on National Security of the House Appropriations Committee, and to the Senate Security office for review by Members and appropriately cleared staff of the Senate Foreign

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[34] See Appendix E.

[35] [redacted]

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Relations Committee and Senate leadership. [redacted]

The intelligence reporting on arms shipments to Bosnia should not be considered in a vacuum. Intelligence reports also contained information about weapons transfers to Serbia from third countries, as well as transfers to the Bosnian Serb forces in violation of the arms embargo. The disparity in arms shipments between the Serbs and Bosnian Serbs on the one hand and the Bosnian Muslims on the other is dramatic evidence of why providing the Bosnians with arms was so crucial in the spring of 1994. Absent these shipments, including the Iranian shipments, Bosnia might have been completely overrun.

Briefings.

Members and staff also were briefed on the situation in Bosnia on a regular basis. In 1994, the State Department conducted a minimum of thirty-five briefings on Bosnia, and in 1995, it conducted nearly 150.[36] The [redacted] Balkan Task Force also conducted numerous briefings on all aspects of the situation in Bosnia, including the military situation, violations of sanctions against Serbia and Montenegro, and violations of the arms embargo against all of the republics of the former Yugoslavia. According to CIA records, the issue of arms transfers was discussed on at least fourteen occasions between February 1994 and December 1995.[37]

Former U.S. Senator Dennis DeConcini, Chairman of the Senate Select Committee on

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[36] U.S. Department of State Bosnia Briefings Calendar. According to the State Department, entries between January and September 1994 may not be complete.

[37] Attachment to Letter from David P. Holmes, CIA, to Michelle Maynard, Oct. 8, 1996, at 1-2 (noting the number of briefings given by the Balkan Task Force at which the issue of arms flows to Bosnia was discussed).

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Intelligence in 1994 recalls being briefed as early as 1992 about clandestine arms shipments to Bosnia from Iran and other Islamic countries. In May 1994, Senator DeConcini and other Senators were briefed by Director James Woolsey of the Central Intelligence Agency about arms shipments to Bosnia from Iran and other Islamic countries. Senator DeConcini also remembers reading press reports about Iranian arms shipments to Bosnia in May and June 1994, but recalled specifically being briefed on the issue prior to reading the press reports. He further recalls being told by a briefer from the Central Intelligence Agency in early May or late June of 1994 that Ambassador Galbraith had delivered a "no instructions" response to President Tudjman.[38]

Congressional Delegation Trips/Staff Delegation Trips to Croatia and Bosnia.

According to State Department records, nearly forty Congressional and staff delegations traveled to Croatia in 1994 and 1995. During these visits, Members and staff had the opportunity to discuss with Embassy officials a wide range of issues related to the Balkan conflict. Most received a country briefing from Ambassador Galbraith. The Ambassador testified that he discussed the general issue of the arms flows to Bosnia with Congressional Members and staff who visited Zagreb in the summer and fall of 1994.[39] Galbraith discussed with members of delegations "the fact that arms were flowing to the Bosnians, that Iran was one country that was

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[38] Select Subcommittee Interview of the Honorable Dennis DeConcini, Oct. 7, 1996, at 1 (hereinafter "Select Subcommittee Int. of Hon. DeConcini").

[39] Select Subcommittee Deposition of Peter Galbraith, Aug. 19, 1996, at 91 (hereinafter "Galbraith Subcommittee Dep."). In particular, the ambassador discussed the issue with a Senator as well as a foreign policy advisor to another Senator, both of whom visited Zagreb in June 1994. Ambassador Galbraith also testified that it is conceivable that he discussed the issue of arms flows with a second Senator during that time.

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supplying them, and that we were not objecting."[40] He did not, however, inform anyone of the specific exchange with President Tudjman.

Ambassador Galbraith had discussions with Senators in the context of the Congressional debate over the unilateral lifting of the arms embargo. Ambassador Galbraith made the point that there were many negative consequences to unilateral lift, and that, "in any event, arms were reaching the Bosnian Muslims."[41] Galbraith testified that while he cannot recall whether he mentioned that Iran was one of the suppliers, he would not, in theory, have been reluctant to mention such a fact.[42] During a June 1994 trip to Zagreb, congressional staff asked Ambassador Galbraith about intelligence reports recounting weapons shipments into Bosnia from Iran and possibly elsewhere. Ambassador Galbraith confirmed the accuracy of those reports, and that the United States was not objecting to those shipments.[43] Ambassador Galbraith also testified that in a phone conversation with a senator on the issue of the arms embargo, he pointed to the fact that arms were getting through to the Bosnians as a reason that a unilateral lifting of the arms embargo was not necessary.[44]

The Administration made no attempt to restrict Congressional knowledge about the flow of arms to Bosnia. As Deputy Secretary Talbott testified, ". . . the Congress was, broadly speaking, aware, as we were, of the Iranian connection in Bosnia because it was reported on a

[40] Id. at 88.

[41] Id. at 91.

[42] Id.

[43] Id. at 138-139.

[44] Id. at 93.

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regular basis in intelligence channels and appropriate staff." [45]

Despite the published reports, intelligence reporting, briefings, codels and staffdels, no Member of Congress and no staff person ever requested the Administration to take action to stop the weapons transfers. Under secretary of State Tarnoff, who was "fairly systematically involved in briefing Congress" on Bosnia issues, recalls no questions being posed about what the United States should do, if anything, to prevent Iranian arms from reaching Bosnia. [46]

Some Members of Congress have asked rhetorically whether the Congress should be getting its information from press accounts. The rhetorical question is disingenuous. Intelligence materials are made available precisely so that Members do not have to rely on press accounts. Members who choose not to review or be briefed on the intelligence reporting are, in effect, choosing to rely upon press reports.

Congressional Knowledge of the Diplomatic Exchange.

While there is ample evidence that Members of Congress and their staffs were aware that arms were flowing to Bosnia with the full knowledge of the U.S. Administration and the allies, the Administration did not seek to disclose the particular diplomatic exchange between Ambassadors Galbraith and Redman and President Tudjman on the issue to any Member of

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[45] Select Subcommittee Deposition of Strobe Talbott, Sept. 5, 1996, at 50 (hereinafter "Talbott Subcommittee Dep.").

[46] Select Subcommittee Deposition of Peter Tarnoff, Sept. 13, 1996, at 37 (hereinafter "Tarnoff Subcommittee Dep.").

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Congress or their staff.[47] The failure of the Administration to inform the Congress about a diplomatic exchange between a United States Ambassador and a foreign head of state is not a violation of law. Nevertheless, the timing of and circumstances surrounding the meeting were unique, and the Administration should have considered informing a select group of Members about the Croatian inquiry and the United States response.

The consensus testimony of United States foreign policy and military officials to the Select Subcommittee confirms that directing Ambassador Galbraith to tell Tudjman he had "no instructions" was the right choice. Policy makers also had confidence that that the "no instructions" response was consistent with the sentiment in the Congress given the overwhelming Congressional votes favoring assistance to the Bosnian Muslims that had occurred in the preceding months.

> I think the way we approached the issue is to say that we believed it was consistent with strong sentiment in Congress which we shared; namely, that the arms embargo was unfair, disadvantageous to the Bosnian Government, and therefore, what we decided with respect to the specific issue that was put to us in late April of 1994 was not inconsistent with the view in the Congress and the country, which the administration shared, and that was that there was unfairness about the arms embargo and it was advantageous to the Muslim side.[48]

The Administration regarded the conversation among Special Envoy Redman and

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[47] Former Senator DeConcini informed the Select Subcommittee that he was informed of the "no instructions" response delivered by Ambassador Galbraith to President Tudjman at a routine intelligence briefing. It appears that the briefer was acting independently. The CIA has no record that such a briefing occurred. Senior Administration policy makers were not aware of this particular briefing or that information regarding the "no instructions" response had been shared with any Member of Congress. Select Subcommittee Int. of Hon. DeConcini at 2.

[48] Tarnoff Subcommittee Dep. at 18-19.

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Ambassador Galbraith and President Tudjman as a diplomatic exchange consistent with existing policy[49] with respect to which Congressional notification under section 662 of the National Security Act of 1947 was not required.[50] Consequently, the Administration kept the specific exchange between U.S. diplomats and Croatia's head of state confidential. "As for keeping the transaction, the exchange confidential, of course we wanted to keep it confidential. We would try as best we can to keep much of our diplomatic activity confidential."[51]

Deputy Secretary Talbott testified that the Administration chose to be discreet about the exchange due to "the delicate state of our relationship with our allies who had troops on the ground. There is a real chance -- this is all hypothetical of course -- if we had taken a course of action or briefed it . . . to the Congress and it had leaked, there is a good chance that our European allies and the Canadians might have pulled out, in which case disaster would ensue."[52]

The Administration's concerns about leaks and the impact of leaks upon U.S. allies are legitimate. In this case, however, resolving the concerns by withholding the information from all

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[49] Id. at 46.

[50] For a more thorough discussion of notifications required under the National Security Act of 1974, see Chapter One, Section Five, which discusses the history and application of Covert Action requirements.

[51] Hearing on U.S. Actions Regarding Iranian Arms Shipments into Bosnia before the Senate Select Committee on Intelligence, 104th Cong. 26, (1996) (statement of Strobe Talbott). This decision was not unanimous, however. At least one senior Administration official, Richard Holbrooke, suggested that a select group of leadership of both parties be informed about the diplomatic exchange with President Tudjman. However, that recommendation was rejected. See: Select Subcommittee Deposition of Ambassador Richard Holbrooke, Sept. 27, 1996, at 10-11 (hereinafter "Holbrooke Subcommittee Dep.").

[52] Talbott Subcommittee Dep. at 47.

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Members of the Congress may have been extreme.[53] The delivery of the "no instructions" response was clearly relevant to the Congressional debate about the arms embargo. The central figures in the debate such as the Majority and Minority leaders, the Chairman and Ranking Members of the House and Senate Armed Services Committees, the House Foreign Affairs and Senate Foreign Relations Committees and the House and Senate Intelligence Committees are accustomed to managing highly confidential information in a discrete way. The failure to provide the information to any member can lead to distrust and suspicion when, as is almost always the case, the information is finally revealed. The fact that the Congress was moving toward a position equivalent to the "no instructions" response suggests that selected Members of Congress could have been informed.

However, while the failure to inform any Members of Congress was a mistake, the cure is not to enact a statute that requires Congressional consultation in the case of a diplomatic exchange. The Administration should maintain the discretion to decide when and how to inform Congress of a diplomatic exchange. In this case, the discretion may not have been exercised as it should have been. A response to a head of state on an issue of enormous international significance that occurs at the same time that Congress is debating the very same issue justifies limited disclosure to selected Members of Congress. Had Members been informed in this case, many of the questions that the Select Subcommittee considered might never have been asked.

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[53] See Chapter One, Section Five for a legal discussion of the Intelligence Authorization Act of 1991 and the rationale behind the omission of diplomatic exchanges as a matter that would require Congressional notification.

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Chapter One
Section Five

A LEGAL DISCUSSION OF COVERT ACTION

The most serious of the issues reviewed by the Select Subcommittee is whether any official of the United States Government violated the law. The success of a policy does not, in any circumstances, justify illegal conduct. The Minority considered these allegations with the utmost seriousness. Attorneys with the Central Intelligence Agency, the National Security Council and the Department of State were consulted. The conclusions are clear. No violations of law occurred, and no conduct that even approaches a violation of law took place.

The Executive Branch Did Not Violate the Law.

The U.S. Government activities investigated by the Select Subcommittee implicate legal requirements of three sorts: the regulation of covert actions, the reporting requirements relating to intelligence activities, and U.S. obligations under international law. There can be little doubt that Executive Branch actions were consistent with all of these legal requirements. But while the failure of Executive Branch officials to inform Congress of the "no instructions" response was not a violation of law, it may have been an error of judgment.

History of Covert Action Requirements.

The history of the restrictions on covert action, which demonstrates the care and precision that have gone into formulation of the statutory definition, has been set out in prior congressional

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committee reports.[1] The first congressional attempt to regulate the conduct of covert actions, which was prompted by reports of U.S. involvement of the ouster of the Allende government in Chile, occurred with the enactment of the Hughes-Ryan Amendment to the Foreign Assistance Act in 1974. This provision barred the CIA from conducting non-intelligence-gathering "operations" in foreign nations unless the President first informed Congress of the importance and nature of the activity. The term "operations" was not defined in the statute or discussed in its legislative history.[2]

At the time that the Hughes-Ryan Amendment was passed, the CIA considered "covert actions" to be "any clandestine operation or activity designed to influence foreign governments, organizations, persons or events in support of United States foreign policy."[3] The scope of this definition was illustrated in a detailed discussion of the covert operations conducted by United States intelligence agencies since the drafting of the National Security Act of 1947 conducted by the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities, Foreign and Military Intelligence (the "Church Committee"). The Church Committee

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[1] See H.R. Rep. No. 705, 100th Cong., 2d Sess. 8-11 (1988).

[2] Foreign Assistance Act of 1974, Pub. L. No. 93-559, § 662 (1974). The Hughes-Ryan Amendment stated, in pertinent part, that "[n]o funds appropriated under the authority of this or any other Act may be expended by or on behalf of the Central Intelligence Agency for operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, unless and until the President finds that each such operation is important to the national security of the United States and reports, in a timely fashion, a description and scope of such operation to the appropriate committees of the Congress * * *." 22 U.S.C. § 2422 (1994) (repealed by Pub. L. No. 102-88, tit. VI, § 601, 105 Stat. 441 (1991).

[3] See Senate Select Comm. to Study Governmental Operations With Respect to Intelligence Activities, Foreign and Military Intelligence, S. Rep. No. 755, 94th Cong., 2d Sess., vol. 1 at 141.

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noted that by 1953 major covert operations were underway in 48 countries, and that several thousand such projects had been undertaken between 1961 and 1976.[4] In its exhaustive review of U.S. intelligence activities, goals, and policies, however, the Church Committee did not propose a more narrowly tailored definition of covert action.

In 1980 Congress enacted the Intelligence Oversight Act, which modified the Hughes-Ryan Amendment and added a new Title V to the National Security Act. The 1980 statute dealt with intelligence oversight in general and covert actions in particular. The Act provided that covert actions and other "intelligence activities" were within the scope of the CIA "operations" that required Presidential findings and reports to Congress.[5] In addition, the 1980 legislation specifically required all executive branch entities involved in intelligence matters to keep the congressional intelligence committees "fully and currently informed of all intelligence activities, including any significant anticipated intelligence activity."

The phrase "significant anticipated intelligence activity" was explained in general terms as covering "covert operations" and "certain other intelligence activities specified in consultation with the executive branch."[6] The term was intended to encompass "the full range of intelligence and intelligence-related activities within the jurisdiction of the two select committees."[7] The Senate Report makes clear that the phrase "significant" was meant broadly:

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[4] Id. at 153.

[5] See Pub. L. No. 96-450, § 501(a).

[6] H.R. Conf. Rep. No. 1350, 96th Cong., 2d Sess. 16, reprinted in 1980 U.S.C.C.A.N. 4192, 4212.

[7] Id.

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> An anticipated activity should be considered significant if it has policy implications. This would include, for example, activities which are particularly costly financially, as well as those which are not necessarily costly, but which have * * * [significant] potential for affecting this country's diplomatic, political, or military relations with other countries or groups. * * * It excludes day-to-day implementation of previously adopted policies or programs.[8]

On the other hand, Congress made no attempt to define the terms "covert action" or "intelligence activity." Instead, the committee reports indicated, rather unhelpfully, that the Executive Branch and the congressional intelligence committees expected to work together "to delineate the matters covered by this provision."[9]

The Executive Branch, meanwhile, took it upon itself to fill in some of the definition gaps in the statutes. Executive orders issued by President Carter in 1978 and President Reagan in 1981 explicitly recognized that "diplomatic activities or the collection and production of intelligence or related support functions" are not within the definition of "special activities" (a euphemism for covert actions).[10]

The concepts in the executive orders and the understandings that had evolved between Congress and the intelligence agencies were incorporated in the current statutory definition of

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[8] S. Rep. No. 730, 96th Cong., 2d Sess. 8, reprinted in 1980 U.S.C.C.A.N. 4192, 4198 (quoting Report of the Committee on Government Operations, U.S. Senate, to Accompany S. Res. 400, 1976, at 26-27).

[9] Id.

[10] Executive Order No. 12,036, § 4-212, 3 C.F.R. 112, 134 (1979); Executive Order No. 12.333, §3.4(h), 3 C.F.R. 200, 215 (1981); see also Executive Order No. 11,905, § 2(c), 3 C.F.R. 90, 91 (1977) (excluding the "collection and production of intelligence and related support functions").

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"covert action," which was enacted in 1991. The definition provides:

> As used in this subchapter, the term 'covert action' means an activity or activities of the United States Government to influence political, economic, or military conditions abroad, where it is intended that the role of the United States Government will not be apparent or acknowledged publicly, but does not include (1) activities the primary purpose of which is to acquire intelligence, traditional counter-intelligence activities, traditional activities to improve or maintain the operational security of United States Government programs, or administrative activities; (2) traditional diplomatic or military activities or routine support to such activities; (3) traditional law enforcement activities conducted by United States Government law enforcement agencies or routine support to such activities; or (4) activities to provide routine support to the overt activities (other than activities described in paragraph (1), (2), or (3)) of other United States Government agencies abroad.[41]

Congress intended that the definition would not "exclude any activity which heretofore ha[d] been understood to be a covert action, nor to include any activity not heretofore understood to be a covert action."[42]

The No Instructions Response did not Constitute Covert Action.

Viewed against the controlling definition, the no-instructions policy and the actions taken by U.S. officials to implement it cannot be viewed as covert action.[43] There is no suggestion in the language of the covert action definition, or in the statutory formulations that preceded the current definition, that a U.S. request to a third country -- much less a refusal by the United

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[41] Intelligence Authorization Act of 1991, Pub. L. No. 102-88, § 503(e), 105 Stat. 429 (codified at 50 U.S.C. § 413b(e) (1994)).

[42] H.R. Conf. Rep. No. 166, 102d Cong., 1st Sess. 28, reprinted in 1991 U.S.C.C.A.N. 193, 251; see also S. Rep. No. 85, 102d Cong., 1st Sess. 42, reprinted in 1991 U.S.C.C.A.N. 193, 235 (the definition is intended to "reflect current practice as it ha[d] developed under the Hughes-Ryan Amendment and the Executive Order definition of 'special activities.'").

[43] See Chapter Two, Section One for a discussion of the need for and formulation of the "no instructions" response.

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States to respond to an inquiry from a third country -- constitutes covert action on the part of the United States. To the contrary, the covert action definition specifically excludes "traditional diplomatic * * * activities." This exclusion reaches the "use of diplomatic channels or personnel to pass messages and conduct negotiations between the United States and other governments or foreign entities. Traditional diplomatic activities, in this context, include activities long understood and accepted to be diplomatic in nature, including the use of private citizens as intermediaries."[14] The exchange between Ambassador Galbraith and President Tudjman falls well within this traditional diplomatic category.

This conclusion is confirmed both by longstanding practice and by clear legislative history. The CIA legal staff indicates that the Agency never has regarded U.S. requests to third parties as constituting covert action on the part of the United States, an understanding that predated the 1991 legislation. That background is of special significance because the 1991 definition was intended to "reflect the [pre-1991] practice."[15]

Indeed, Congress made a conscious -- albeit controversial -- decision to exclude requests to third countries from the definition of covert action enacted in 1991. As originally passed by both Houses and presented to the President, the statutory definition expressly provided that "[a] request by any department, agency, or entity of the United States to a foreign government or a private citizen to conduct a covert action on behalf of the United States shall be deemed to be a

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[14] S. Rep. No. 85, supra, at 45.

[15] S. Rep. No. 85, supra, at 42.

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covert action."[16] Recognizing that the Bush administration objected to this language, the Chairmen of the House and Senate intelligence committees wrote to the President, stating that Congress did not intend the provision to foreclose or inhibit certain contacts with third parties:

> [This provision is not intended] to preclude the informal contacts and consultations which would be required prior to the United States officially requesting a third country or private citizen to undertake [covert action] on its behalf. Only once it had been determined that such assistance was feasible and is made the subject of an official request by the United States Government would the requirement for a finding and reporting to the intelligence committees come into play. That is, indeed, consistent with the understandings that have long existed between the Administration and the two committees.[17]

President Bush nevertheless pocket vetoed the bill, pointing to the third-party language, among other things. The President was concerned that this provision:

> could have a chilling effect on the ability of our diplomats to conduct highly sensitive discussions concerning projects that are vital to our national security. Furthermore, the mere existence of this provision could deter foreign governments from discussing certain topics with the United States at all. Such a provision could result in frequent and divisive disputes on whether an activity is covered by the definition and whether individuals in the executive branch have complied with a statutory requirement.[18]

The Senate responded to the pocket veto by attempting to accommodate the President while retaining specified third-party activities within its definition of covert action. Although eliminating the language targeted by President Bush, the Senate would have provided that 'covert action' means an activity or activities conducted by, or on behalf and under the control of, an

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[16] S. 2834, 101st Cong., 2d Sess. (1991).

[17] H.R. Rep. No. 37, 102d Cong., 1st Sess. 3 (1991).

[18] See Memorandum of Disapproval for the Intelligence Authorization Act, Fiscal Year 1991, PUB. PAPERS 1729-30 (1990).

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element of the United States Government * * *."[19] The Chairman of the Senate Select Committee on Intelligence explained that he and the Administration had been unable to agree on the precise degree of U.S. control necessary to satisfy this definition:

> [W]e have agreed to drop the word "requests," which was at the heart of the President's concern, but to amend the definition of covert action to clarify that any covert action which is undertaken "on behalf of the United States and under" its control will require a finding and notice to the Congress. In [Senate] report language on this provision, we go on to state that we regard any situation where the United States is providing funding or other forms of significant assistance to a third party, or U.S. personnel are involved in providing direction and assistance to a third party to undertake a covert action on behalf of the United States, we consider these situations to require prior Presidential approval and reporting to the Congress.
>
> The administration agrees with this approach. What we were unable to agree on is whether the circumstances cited in the report language were the only circumstances where U.S. control of a third party [sic] might constitute a covert action. The administration would, indeed, have preferred describing these circumstances as the only ones where U.S. involvement might constitute control for purposes of the definition. My personal view is that there could be circumstances other than those cited specifically in the report language where U.S. involvement might constitute control. The report language is silent on this point, however, setting forth only the circumstances where agreement was possible.[20]

The House took a different tack. As the Chairman of the House Permanent Select Committee on Intelligence explained, "[w]e proposed a compromise designed to make certain that the same approval and congressional notification standards apply to covert actions undertaken for the United States as apply to those undertaken by the United States. That compromise, which would have made clear that covert actions directed, controlled, or induced by

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[19] S. 1325, § 503(e) 102d Cong., 1st Sess. (1991).

[20] 137 CONG. REC. S9211 (daily ed. June 28, 1991) (statement of Sen. Boren).

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the United States had to be reported to Congress, was rejected."[21] The House bill therefore omitted all mention of requests to third countries.[22]

The Conference Committee ultimately adopted the House position. As Representative Shuster explained:

> The "third party request" provision was of great concern to the President because it was capable of such a potentially broad interpretation that it could have seriously interfered with the conduct of sensitive foreign relations. Detailed and lengthy efforts were made to appropriately focus the original language, but the problem of defining the outer limits of the provision without disrupting legitimate diplomatic relations ultimately proved too complex. In view of this seemingly intractable problem and the significant progress made on the other issues, the conferees decided to drop the "third party request" provision.[23]

President Bush signed the legislation, declaring himself "pleased that the Act, as revised, omits any suggestion that a 'request' by the United States Government to third parties may constitute 'covert action' as defined by the Act."[24]

This history clearly establishes that U.S. requests to third countries do not constitute covert action on the part of the United States. President Bush specifically objected to the third-party language in the initial version of the covert action definition; as enacted, the statute omitted both that language and the weaker third-party provision in the proposed Senate replacement. This is persuasive evidence that a request to a third party is not covert action. As a consequence,

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[21] 137 CONG. REC. H2621 (daily ed. May 1, 1991) (statement of Rep. McCurdy).

[22] Id.

[23] 137 CONG. REC. H6161 (daily ed. July 31, 1991) (statement of Rep. Shuster).

[24] Statement by President George Bush Upon Signing H.R. 1455, 27 WEEKLY COMP. PRES. DOC. 1137 (Aug. 19, 1991), reprinted in 1991 U.S.C.C.A.N. 257.

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even if the no instructions response is regarded as a request that Croatia itself engage in covert action, such a request should not be regarded as covert action on the part of the United States.

Beyond that, of course, the communication of "no instructions" was not a U.S. request for action; it was the absence of a veto on action proposed by Croatia. The Minority regards this difference as significant. Giving covert action status to a U.S. decision not to object to a third party's proposed activities would have very broad implications. Variations on this situation undoubtedly arise with great frequency, as allies give the United States a "heads-up" about contemplated action. Does failure by the United States to object to these proposals require a presidential finding? In this light, treating Ambassador Galbraith's exchange as covert action would create insuperable line-drawing problems, lead to bureaucratic paralysis, and discourage communications from other nations. These are precisely the consequences that President Bush sought to avoid with his 1990 veto.

Indeed, Representative Shuster made just that point in explaining the considerations that led to elimination of the third-party provision from the 1991 legislation:

> It is not too difficult to envision this uncertainty [that would result from treating communications with third countries as covert action] at work. Consider the case of an animated confidential exchange between a United States and foreign official concerning a sensitive international threat to our two countries' mutual interests.
>
> Suppose the U.S. official says, "We know you have the capability to mount a particular covert action, which we believe might neutralize this threat on behalf of both our vital interests. Why don't you undertake that specific covert action?"
>
> Now, is that a request which is subject to the covert action approval and reporting requirement, or is it merely seeking an explanation of our ally's policy? Reasonable minds might reach different conclusions.
>
> But if the poor U.S. official in a faraway foreign country, attempting to represent the United States in such a situation, has to constantly worry about whether such statements

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might later be determined to be an unlawful request for a third party covert action, he may well feel compelled to exercise stringent self-censorship, not conducive to the effective conduct of his foreign affairs responsibility.[25]

Neither the Convoy nor the [redacted] Missile Incident Constituted Covert Action.

The other incidents that have been the subject of the Subcommittee's inquiry also did not constitute covert action -- a conclusion shared by legal staff at the CIA, who do not believe that any events related to the Subcommittee's investigation amounted to covert action. Two episodes warrant brief mention.

First, efforts by U.S. officials -- if they occurred -- to assist humanitarian convoys en route to Bosnia cannot be considered covert action for the simple reason that these were not actions where, in the statutory terms, it was "intended that the role of the United States Government [would] not be apparent or acknowledged publicly."[26] Public activity cannot fall within the definition, even if the action is intended to mislead a potential adversary, or if the specific objectives of an activity are publicly misrepresented or are concealed altogether.[27] That would be so even if the United States had reason to believe that some convoys might contain arms; the legislative history indicates that U.S. activities are not covert actions simply because the U.S. objectives are misrepresented or concealed. In any event, U.S. intervention, if it

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[25] 137 Cong. Rec. H2623 (May 1, 1991) (statement of Rep. Shuster).

[26] See Chapter Two, Section Four for discussion of the humanitarian convoys.

[27] See H.R. Conf. Rep. No. 166, supra, at 29; S. Rep. No. 85, supra, at 43.

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occurred at all, did not go beyond requesting action by third parties, which should not be considered covert action for the reasons explained above.

Second, the inspection of Iranian missiles by U.S. military personnel does not constitute covert action.[28] The inspection was not "an activity * * * to influence political, economic, or military conditions." It was not a U.S.-initiated attempt to achieve a particular policy goal; instead, it was a technical support function designed to assist an ally's activities. U.S. officials thus did not ask, and were not told, what happened to the missiles after the inspection.

Moreover, requiring a presidential finding for the sort of on-the-fly, reactive activity represented by the missile inspection surely would be most impractical; even if the inspection were thought to fall within the literal terms of the statute, the exclusion of such fast-moving activities from the covert action definition finds clear support in the legislative history. Describing the historical treatment of covert actions, the Senate Report indicated:

> [Certain] activities that may literally fall within the definitions [of covert action] but for which it would be impractical to seek Presidential approval and report to Congress on a case-by-case basis, have been assumed not to be covert action. To some extent, Congress has known of and acquiesced in this practice and has worked with the executive branch to develop mutually agreeable understandings of the reach of the reporting requirements.[29]

The exclusion of such actions from the definition therefore reflects the historical practice that Congress sought to codify.

The Executive Branch was not Under a Legal Duty to Report the "No Instructions" Response.

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[28] See Chapter Two, Section Seven for a discussion of U.S. activities regarding inspection of Iranian missiles.

[29] S. Rep. No. 85, supra, at 42. See H.R. Rep. No. 705, 100th Cong., 2d Sess. 38 (1988), accompanying H.R. 3822

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The Executive Branch was not under a legal obligation to report the "no instructions" response as an intelligence activity. Since 1980 the heads of all agencies "involved in intelligence activities" have been obligated to "keep the intelligence committees fully and currently informed of all intelligence activities."[30] The statute includes no definition of the intelligence activities that are subject to this mandatory reporting requirement: the legislative history indicates only that the term "is intended to encompass the full range of intelligence and intelligence-related activities within the jurisdiction of the two select committees."[31]

It nevertheless is probably clear that, at least in the ordinary case, diplomatic exchanges such as the "no instructions" response do not qualify as "intelligence activities" within the meaning of the statutory term. The covert action definition reflects the recognition that diplomatic and intelligence activities constitute distinct categories; there is no reason to doubt that the same distinction applies under Section 413a(1). Similarly, the specific intelligence activities discussed in connection with the 1991 legislation -- "covert paramilitary operations, propaganda, political action, election support," and, of course, intelligence collection and counterintelligence measures[32] -- have no similarity to diplomatic exchanges. That conclusion has an obvious common sense basis: requiring reports on all diplomatic exchanges touching on intelligence matters would be inordinately burdensome and would involve diplomats in the

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[30] 50 U.S.C. § 413a(1).

[31] H.R. Conf. Rep. No. 1350, supra, at 16 n.1.

[32] S. Rep. No. 85, supra, at 42.

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drawing of unmanageable lines. Under current practice, such exchanges are not regarded as subject to the mandatory reporting requirement.

Executive Branch Officials Should Have Disclosed the "No Instructions" Response to Congress.

Concluding that the Executive Branch was under no legal obligation report the "no instructions" response, however, is not to say that the Galbraith-Tudjman exchange -- and the policy considerations that underlay the response to President Tudjman -- should have been withheld from Congress. In fact, it is the Minority view that the better course may have been for Executive Branch officials to have notified selected Members of the appropriate Congressional committees or, perhaps, the Congressional leadership.

In reaching this conclusion, we do not suggest that Executive Branch officials meant to mislead the Congress. There is absolutely no evidence that Executive Branch officials made misstatements in official presentations or in answers to congressional inquiries. Moreover, Executive Branch officials did not regard the "no instructions" response as a change in policy. As discussed at length in the previous section, intelligence data noting shipments of Iranian arms were distributed widely in Congress.

Having that said, the Minority does not consider the "no instructions" response to be the kind of routine diplomatic exchange that need not be called to congressional attention. A number of considerations -- both singly and in combination -- suggest that the better course may have been for the Executive Branch to inform Congress of the "no instructions" response.

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First, the "no instructions" response was -- and plainly understood by Executive Branch officials to be -- a matter of considerable importance. The policy was significant enough that, within the space of some seventy-two hours, it went from Ambassador Galbraith through several levels at the State Department to the Secretary of State and the National Security Adviser and, ultimately, to the President himself. This close attention to the matter within the State Department and the National Security Council was no doubt warranted: the answer to President Tudjman's question had a significant impact on the status of the Muslim-Croat Federation, the survival of the Bosnian government, and U.S. relations with its closest European allies.

Second, notification would have been of particular importance because the "no instructions" response was clearly relevant to a contentious issue being debated in Congress at the time. The question whether to lift or modify the embargo on arms shipments to Bosnia was a matter of intense and continuing discussion through the spring and summer of 1994. Disclosure of the "no instructions" response, and of the policy considerations that underlay the United States decision, would have been appropriate. At a minimum, notification likely would have led to more informed decision-making by Members of Congress.

Third, and perhaps most fundamentally, although the possible adverse reaction by U.S. allies gave Executive Branch officials good reason to keep the Tudjman-Galbraith exchange closely held, the Administration could have struck a more reasonable balance between the desire to minimize the risk of leaks and the wisdom of informing key Members of Congress. The Administration would have been wise to consider the comments made in response to the argument that covert actions are too sensitive to disclose to the intelligence committees or to the congressional leadership:

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> In the final analysis, it's a question of balance. We must balance the harm that may result from the disclosure of a secret against the value of consultation and independent advice for the President prior to the initiation of a covert action. Have not the events of recent years shown us that the President needs that kind of advice in all circumstances? When covert actions are contemplated that will have profound effects on our security interests, the balance, in our democracy, must be struck in favor of prior consultation. I the long run it will serve us best.[33]

The issue before the Select Subcommittee does not involve a covert action, but the same need for balance applies. Indeed, had Congress been notified of the "no instructions" response in a timely fashion, much of the suspicion and skepticism that prompted the current investigation might have been prevented.

The "No Instructions" Response did not Violate International Law.

The remaining area of legal inquiry involves the United States' international obligations. On this score, the decision not to affirmatively enforce the embargo against third countries -- a decision embodied both in the no-instructions policy and in the Nunn-Mitchell legislation -- did not violate international law.

The United States' legal obligations concerning the arms embargo were set out in a series of United Nations resolutions. U.N. Security Council Resolution 713, which imposed the embargo, plainly was mandatory. It provided that the Security Council:

> Decides, under Chapter VII of the Charter of the United Nations, that all states shall, for purposes of establishing peace and stability in Yugoslavia, immediately implement a general and complete embargo on all deliveries of weapons and military equipment to Yugo-

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[33] H.R. Rep. No. 705, supra, at 14-15, quoting Statement of Rep. Hamilton, Feb. 24, 1988, Subcommittee on Legislation, Permanent Select Committee on Intelligence, pp. 5, 6, and 7.

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> slavia until the Security Council decides otherwise following consultation between the Secretary-General and the Government of Yugoslavia.[34]

In contrast, the other embargo-related resolutions, which addressed enforcement of the embargo, were quite different in form. U.N. Security Council Resolution 787 authorized, but did not require, U.N. member states to take steps to enforce the arms embargo established in earlier resolutions. It provided:

> The Security Council, * * * [a]cting under Chapters VII and VIII of the Charter of the United Nations, calls upon States, acting nationally or through regional agencies or arrangements, to use such measures commensurate with the specific circumstances as may be necessary under authority of the Security Council to halt all inward and outward maritime shipping in order to inspect and verify their cargoes and destinations and to ensure strict implementation of the provisions of Resolutions 713 (1991) and 757 (1992).[35]

Similarly, U.N. Security Council Resolution 740 "[c]alls upon all States to cooperate fully with the [sanctions] Committee * * *, including reporting any information brought to their attention concerning violations of the embargo."[36]

Resolutions 787 and 740 do not have the force of international legal obligations. While some resolutions of the Security Council are binding on member states -- under Article 25 of the U.N. Charter (emphasis added), "[t]he Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter" -- it is quite

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[34] Resolution 757 is similar to Resolution 713, setting out in detail the obligations of member states to implement sanctions against the remaining Federal Republic of Yugoslavia.

[35] See U.N. Security Council Resolution 787.

[36] See U.N. Security Council Resolution 740.

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clear that not all resolutions of the Security Council impose mandatory obligations.[37] Some resolutions are not "decisions," others may not be made "in accordance with the [] Charter," and many simply are not intended to be binding.[38]

In determining their legal status, it is useful to contrast Resolutions 787 and 740 with Resolution 713, which established the embargo. The text of Resolution 713 displays every element necessary to come within the mandatory terms of Article 25: it uses the express language of "decision" as the operative verb; it identifies the source of the Council's power to act (Chapter VII, which contemplates decisions, as opposed to the non-binding recommendations authorized under Chapter VI); it uses language of direction ("shall"), exhibiting an intent to bind member states; and it is directed at "all states."[39] Violations of its mandate to implement an arms embargo necessarily are violations of a member state's treaty obligations under the Charter, and thus are inconsistent with international law.

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[37] Scholars, judges, and diplomats agree that the reach of Article 25 remains unsettled, both in theory and in practice. See, e.g., Bruno Simma (ed.), The Charter of the United Nations: A Commentary 409 (1994) ("the scope of art. 25 is also open, since the term 'decision' [] as used in this provision cannot refer to all pronouncements of intent by the [Security Council] made under the terms of the formal voting procedure"); Renata Sonnenfeld, Resolutions of the United Nations Security Council 121-122 (1988) (noting "the ambiguity of the term 'decision'" and citing an official U.N. publication noting that the article had not been subject to much debate or clarification).

[38] See, e.g., Bruno Simma (ed.), The Charter of the United Nations: A Commentary 409 (1994) ("the notion of 'decision' within the terminology of the Charter is not unambiguous"); Oscar Schachter, United Nations Law in the Gulf Conflict, 85 Am. J. Int'l L. 452, 463 n.31 (1991) (referring to "[t]he important distinction between binding and nonbinding decisions"); See also Craig Scott, et al., A Memorial for Bosnia, 16 Mich. J. Int'l L. 1, 126 (1994) ("Clearly, Article 25 does not operate so as to make all Security Council decisions binding").

[39] U.N. Security Council Resolution 713.

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Resolution 787 differs in significant ways. Its operative verb ("calls upon") reflects exhortation rather than decision, and there is no language directing members to perform particular acts.[40] The scope of the request is deliberately ambiguous, referring to "such measures commensurate with the specific circumstances as may be necessary."[41] By necessity the resolution's request applies not to all states, but only to those with the ability to halt shipping and to ensure implementation of the embargo. Resolution 787 thus cannot be understood to impose an affirmative, binding obligation.

Resolution 740 bears even fewer hallmarks of a binding "decision." It merely "calls upon" states to "cooperate" with the sanctions committee.[42] The hortatory operative verbal phrase, as well as the discretionary element (seeking generalized "cooperation"),[43] emphasize that this resolution is of a wholly different character than Resolution 713.

The intent of the Security Council — determined by reference to the language and effect of a resolution — often determines whether a resolution is binding.[44] The language discussed above demonstrates that the Security Council (in Resolution 713, for example) knows how to make a forceful, binding decision subject to Article 25 of the Charter. The fact that the roughly

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[40] U.N. Security Council Resolution 787.

[41] Id.

[42] U.N. Security Council Resolution 740.

[43] Id.

[44] See Simma, Charter at 413; see also Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (Advisory Opinion), 1971 I.C.J. 16, 53 (1970) ("The language of a resolution of the Security Council should be carefully analyzed before a conclusion can be made as to its binding effect").

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contemporaneous language of Resolutions 787 and 740 differs from that of Resolution 713 in important ways demonstrates that the Security Council did not intend those resolutions to have the same binding effect.

Comparing Resolutions 787 and 740 with other recent resolutions confirms that they should not be construed as imposing international legal obligations. The closest parallel to the resolutions concerning the former Yugoslavia are those addressing Iraq's invasion of Kuwait, which provide the only other recent example of the Council's systematic use of its Chapter VII authority to adopt binding decisions.[45] Notably, the Yugoslavia resolutions parallel the Iraq resolutions in significant part. Resolution 661 (using the term "Decides" and mandatory language similar to that in Resolution 713) imposed obligations on member states to effect an embargo on Iraq and occupied Kuwait.[46] Resolution 665 (in which the Council used "Calls upon" as the operative verb and adopted language virtually identical to that used in Resolution 787) authorized certain states to use additional measures to enforce the embargo.[47]

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[45] Together, these two instances represent a significant departure from the Security Council's prior practice, which had been largely hamstrung by superpower conflict. See Simma, Charter at 416 (1994) ("The first case in which the [Security Council] took a whole series of binding decisions under Chapter VII relates to the Iraqi invasion of Kuwait"); id. at 418 (noting resolutions concerning Yugoslavia and Somalia); see also Oscar Schachter and Christopher C. Joyner (eds.), United Nations Legal Order 62 (1995) ("Because of the substantial paralysis of the Security Council throughout the Cold War years, that is, during most of the Council's existence, the full extent of the Council's powers has not yet been explored").

[46] U.N. Security Council Resolution 661.

[47] Resolution 665 provides: "[t]he Security Council * * * Calls upon those member states cooperating with the Government of Kuwait which are deploying maritime forces to the area to use such measures commensurate to the specific circumstances as may be necessary under the authority of the Security Council to halt all inward and outward maritime shipping in order to inspect and verify (continued...)

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The Security Council resolutions concerning the Persian Gulf crisis have been closely scrutinized in recent years. The authorities agree that Resolution 665 (and, by extension, Resolution 787) was merely an authorizing resolution, not a mandatory one. It "plainly cannot be construed as imposing any binding obligation on the United States."[48] One scholar explained the point in detail:

> At first blush, this resolution [665] may appear to be a decision of the Security Council obliging the United States to use armed force. But close analysis reveals that it is not. * * * Neither this resolution nor any previous Security Council resolution requires any member state to deploy maritime forces to the area. * * * Even if a state becomes subject to the resolution by taking that action, it retains full discretion to determine which measures, if any, are "commensurate to the specific circumstances," and whether they are in fact "necessary."[49]

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[47](...continued)
their cargoes and destinations and to ensure strict implementation of the provisions related to such shipping laid down in resolution 661 (1990)."

[48] Michael J. Glennon, The Constitution and Chapter VII of the United Nations Charter, 85 Am. J. Int'l L. 74, 82 (1991).

[49] Glennon, 85 Am. J. Int'l L. at 82. See also Alyssa Pyrich, Recent Developments, United Nations: Authorizations of Use of Force, 32 Harv. Int'l L.J. 265, 267 (1991) (Resolution 665 "authorizes states with forces in the region" to use forcible measures); Christopher John Sabec, Note, The Security Council Comes of Age: An Analysis of the International Legal Response to the Iraqi Invasion of Kuwait, 21 Ga. J. Int'l & Comp. L. 63, 72 (1991) (Resolution 665 "authorized military action to halt maritime trade with Iraq")

This understanding of the effect of Resolution 665 (and, by extension, Resolution 787) is consistent with the Security Council's permissive (non-binding) authority over military efforts. "A request to use military force in the absence of any special agreement [under Article 43] is not legally binding." Matthew D. Berger, Note, Implementing a United Nations Security Council Resolution: The President's Power to Use Force Without the Authorization of Congress, 15 Hastings Int'l & Comp. L. Rev. 83, 93 (1991). See also Schachter & Joyner, United Nations Legal Order at 281. In the two instances in which the Council expressly authorized military action (Korea and Kuwait), it did not oblige member states to participate, but merely permitted the action. See Eugene V. Rostow, Until What? Enforcement Action or Collective Self-Defense?, 85 Am. J. Int'l L. 506, 508-509 (continued...)

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The clear conclusion, then, is that the resolutions calling upon member states to aid in enforcing the embargo were hortatory. As a consequence, the "no instructions" response -- in which the United States decided not to take affirmative steps to prevent a violation of the embargo -- was consistent with the United States obligations under international law.

**"(...continued)
(1991). Likewise, where the Council authorized forcible measures to enforce a sanctions regime (in Resolutions 665 and 787), it did not impose any binding obligation on states to take enforcement action, nor would it have authority under the Charter to purport to do so. Thus, even if the Security Council clearly stated its intention to act under Article 25 in a resolution such as 665 or 787, the obligation by its terms would not apply because the "decision" of the Council would not be "in accordance with the [] Charter."**

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Chapter Two
Section One

THE NO INSTRUCTIONS RESPONSE OF APRIL 1994

At the heart of the Select Subcommittee investigation are the conversations among Ambassador Peter Galbraith, Special Envoy Charles Redman and Croatian President Franjo Tudjman. President Tudjman asked what the United States reaction would be to the transshipment of arms through Croatia to Bosnia, and the Ambassador and the Special Envoy replied that they had been given "no instructions" on how to respond. The Minority believes that the detailed account that follows is the most accurate exposition of the meeting between President Tudjman and these two diplomats and of the events leading up to, and following, the meeting. This account not only establishes the care with which the instructions were implemented, but also puts into perspective the minor inconsistencies that occur in any retelling of events by witnesses more than two years after they occurred.

As discussed in the previous Chapter, the Clinton Administration weighed several options before determining that the "no instructions" response to the Croatian inquiry about arms shipments to Bosnia would be the most tenable. The policy makers in Washington and the implementors of that policy in the region carefully considered three options before agreeing on the United States response to Croatia. The testimony of the participants and the written record of events make it absolutely clear that neither the response nor the events prior or subsequent to the delivery of the response were a rogue operation instituted by an isolated ambassador. Although the time in which the decision had to be formulated and presented was short, and top policy

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makers were spread throughout the world,[1] a successful effort was made to coordinate the response within and between the necessary agencies.[2]

The Administration reached its decision to proceed with this response knowing that the Croatians were likely to see it as a signal to reestablish a formal arms pipeline and that the Iranians would be the primary, although not sole, source for the weapons. The Administration carefully considered the extent to which the response would allow the Iranians more access in the region than they possessed already. The following is a detailed description of the events surrounding the formulation of the "no instructions" response and its delivery to the Croatian government.

Weeks Preceding President Tudjman's Presentation of the Question to Ambassador Galbraith.

Although the date when the Croatians first began giving serious thought to reestablishing the arms pipeline to the Bosnians cannot be fixed exactly, [redacted] By February - March 1994, hostilities

[1] On April 27, 1994, Secretary of State Christopher was traveling in the Middle East. President Clinton, Anthony Lake, and Strobe Talbott were traveling to California for the Nixon funeral.

[2] Select Subcommittee Deposition of Strobe Talbott, Sept. 5, 1996, at 45 (hereinafter "Talbott Subcommittee Dep.").

[redacted]

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had ceased, and the Croatian and Bosnian governments had agreed to a new Federation negotiated by the United States and adopted in March 1994 ("the Federation Agreement").[5] The success of the Federation Agreement not only meant a cessation of the needless humanitarian suffering, but also represented the beginning of a new military alliance more capable of resisting Serb forces.[6]

With the diminishing tension between the two countries, the Bosnian government approached the Croatians regarding the reestablishment of the formal arms pipeline. Iran, which already was committed to the Bosnian cause, recognized that the Federation represented an opportunity to enhance its status as Bosnia's most important friend within the Islamic world.[7]

[redacted]

[5] For an extensive discussion of the Federation agreements, see Chapter One, Section Two.

[6] In his testimony before the House Permanent Select Committee on Intelligence, Ambassador Galbraith explained that during the Muslim-Croat war it was extremely difficult to get weapons into Bosnia. House Permanent Subcommittee on Intelligence Deposition of Peter W. Galbraith, May 30, 1996, at 24 (hereinafter "Galbraith HPSCI Dep."). United States diplomacy in the region was therefore aimed at ending the war and solidifying a military alliance that could bolster the Bosnian Muslims' resistance to the Serbs. Id. See also, Select Subcommittee Deposition of Ronald Neitzke, Aug. 7, 1996, at 40 (explaining that after the battle in Mostar on May 7, 1993, it would have been inconceivable for any Croat national to advocate supplying arms from any source to the Muslims) (hereinafter "Neitzke Subcommittee Dep.").

[7] Iran desired to be a key player in Bosnia since the onset of the Balkan conflict. The plight of the Bosnian Muslims was a popular cause in Iran and was exploited by the Iranian leaders internally and within the Islamic world community. The role of Iran in the region is discussed more fully at Chapter Three, Sections One and Two.

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[redacted]

The Croatians were receptive to the Iranian proposal to resume the arms pipeline to Bosnia well before the April 28 meeting between Tudjman and Ambassador Galbraith. The intelligence also establishes that Iran, Croatia, and Bosnia independently discussed arms transshipments well before Croatian officials approached United States officials and the question was posed formally to Ambassador Galbraith.

The Question Is Posed to Embassy Zagreb Personnel.

In fact, the first inquiries from Croatian officials about the United States position on such shipments [redacted] According to cables from Embassy Zagreb, on April 18, 1994, Charles Redman, the United States Special Envoy on former Yugoslavia, met with Croatian Foreign Minister Mate

[redacted]

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Granic.[10] [redacted]

Apparently, Foreign Minister Granic was too subtle in his presentation of the issue to Special Envoy Redman.[13] [redacted][14]

The [redacted][15] learned from his [redacted]

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[10] [redacted] Apr. 20, 1994. Although the [redacted] and the Deputy Chief of Mission ("DCM") both reported this meeting through their channels, Special Envoy Redman was unable to recall this meeting specifically. See Select Subcommittee Deposition of Charles Redman, Aug., 27, 1996, at 30, 31("I returned to Washington on the 19th . . . I just don't know if I saw [Granic] on the way out.")(hereinafter "Redman Subcommittee Dep."). [redacted]

[11] [redacted]

[12] [redacted]

[13] Galbraith Subcommittee Dep. at 20. Despite the fact that he had drafted both reporting cables, the DCM does not recall having known of this meeting in April 1994. Neitzke Subcommittee Dep. at 152-53. According to him, his first awareness that the Croatians were seeking a United States policy statement was in a meeting with Foreign Minister Granic on April 27, 1994. Id. at 153.

[14] Id.

[15] [redacted]

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[redacted][16] that the Foreign Minister was expected to, but did not, ask Special Envoy Redman whether the "United States is prepared to pressure Bosnia Herzegovina to stop asking Croatia to transship [weapons]."[17] Granic therefore failed to elicit a formal reply from the United States or indicate in any way that the Croatians were seeking an explicit response concerning the United States position on the resumption of the arms pipeline.

This seemingly inconsistent position reflects the division within the Croatian government about the issue of the arms pipeline. [redacted][18] there were some within the government, Mate Granic and Miro Tudjman among them, who disagreed with this policy. However, even among the dissenters, the objections to the transshipments varied. For example, Foreign Minister Granic was concerned about the pipeline's effect on the peace process,[19] whereas Miro Tudjman wanted to minimize Iranian involvement.[20] Miro Tudjman attempted to

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[16] [redacted]

[17] [redacted]

[18] [redacted]

[19] Department of State Cable, Zagreb 1567, Apr. 19, 1994.

[20] [redacted] Subcommittee Dep. at 11-12. [redacted]

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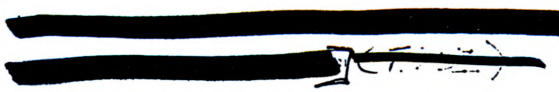
advance this position when he exploited his [redacted]



The reality of the situation was, however, that President Franjo Tudjman retained ultimate authority over the decision, and he apparently had agreed to the transfer of arms via Croatian territory.[22] The only remaining issue for the Croatians was what effect, if any, this decision would have on relations with the United States: that was the real reason for posing the question to United States officials.[23]

The Deputy Chief of Mission ("DCM") reported both the meeting between the foreign minister and the Special Envoy and the [redacted] [24] and explained that the question of arms to the Bosnians was in

[21] Department of State Cable, Zagreb 1597, Apr. 21, 1994, at 1 (hereinafter "Zagreb 1597"); [redacted] Apr. 21, 1994. [redacted] Subcommittee Dep. at 21-22.

[22] [redacted] Subcommittee Dep. at 136. The [redacted] explained that Tudjman was a very strong leader who would make the decision regarding the resumption of the formal arms pipeline on his own. Id.

[23] See Galbraith Subcommittee Dep. at 6-8 (commenting on what type of response the Croatians were seeking from the United States).

[24] The first of these cables was dated April 19, 1994, and the second April 21, 1994. Although both these cables report on the meeting Special Envoy Redman had with Foreign Minister Granic, DCM Neitzke noted in the cable that Special Envoy Redman had not reviewed them.

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the fore. On April 21, 1994, the DCM reported that the Croatians would certainly be looking for an official response from the United States and would cooperate providing it was in Croatia's interest to do so.[25] The DCM requested guidance from the Department on this matter.[26] These cables circulated throughout the Department of State but in the absence of a formal request by the Croatians, the formulation of a response was not initiated.[27] There were, however, informal discussions about the Croatian inquiries in Zagreb,[28] and the Department had been placed on notice that the question could arise again. [redacted] Although the [redacted] was concerned appropriately about the Croatian intentions, the reporting is incomplete and misleading. [redacted] The failure to talk to the Special Envoy is significant in this case since the Special Envoy does not remember the meeting.[29] [redacted]

[25] Zagreb 1567 at 1.

[26] Department of State Cable Zagreb 1597, Apr. 21, 1994, at 1.

[27] The cable circulated within the Department of State on April 22, 1994. An electronic mail message conveys that the Department did not respond to the Croatian attempt to obtain a United States position on the matter because the request was informal. Department of State E-Mail, Apr. 22, 1994, at 1. The e-mail's author recognized the question's potential importance, however, and noted that it should not be dismissed out of hand, just tabled until more formally presented. Id. In his conversations with Department of State officials during the week of April 27, 1994, Ambassador Galbraith reminded them that the Department had known about this issue for several days. Galbraith Subcommittee Dep. at 20.

[28] Vershbow Subcommittee Dep. at 111.

[29] Redman Subcommittee Dep. at 30.

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Second, in his cable, the [redacted] relayed a previously un-memorialized conversation from early-March 1994 in which Ambassador Galbraith discussed with the [redacted] a possible covert action to arm the Bosnian Muslims. The assistance likely would be from Islamic countries such as Iran or Turkey, not the United States, and would traverse Croatia (the only land route to the Bosnians) without objection by the United States.[30] [redacted]

The [redacted] reported that he told the Ambassador during the March conversation that he was not in the position to make policy and referred the Ambassador to policy makers at the National Security Council or the Department of State to address the requisite finding and legal issues. The [redacted] also reported that he opined to the Ambassador that such an action would be a mistake, and the Ambassador remarked that he would bring the idea to National Security Advisor Anthony Lake.[31] The [redacted] did not memorialize this conversation at the time (in March) because he did not think it was an issue worth reporting. The [redacted] testified to the Select Subcommittee that he orally informed the Central

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[30] [redacted] Apr. 20, 1994. In this cable, the [redacted] recounts that the Ambassador suggested that Turkey serve as the cutout point for possible arms shipments to the Bosnian Muslims from Iran. The Majority concludes that this statement is indicative of the fact that Ambassador Galbraith actually orchestrated the Croatian inquiry regarding the resumption of the arms pipeline. This line of argument is not credible. It was well known within the foreign policy and intelligence communities that the Islamic countries, particularly Turkey and Iran, were interested in helping the Bosnians. Throughout 1993, the President of Turkey made repeated contact with United States and United Nations officials to encourage either the lifting of the arms embargo against Bosnia altogether, or supplying arms to the Bosnians directly despite the embargo. See, e.g., Department of State Cable, Nov. 8, 1993. The fact that Ambassador Galbraith incorporated this well known knowledge into a discussion with the [redacted] - who also should have been aware of Turkey's interest in aiding the Bosnians - is no way indicative of his having orchestrated this deal among Iran, Croatia, and Bosnia. [redacted]

[31] [redacted]

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European desk officer of the conversation: but the desk officer does not remember the conversation and did not report the conversation to anyone within the European branch.

In his April 20 cable, the [redacted] tied the March idea raised by the Ambassador to the comments made by Foreign Minister Granic and requested guidance from [redacted] headquarters. The [redacted] assumed that Granic's conversation was evidence that Ambassador Galbraith had proceeded with the idea he had discussed in March. In addition, the [redacted] reported on information provided by the DCM that the Special Envoy was intent on initiating an "Afghan style" operation to arm the Bosnian Muslims and circumvent the arms embargo.[32] In subsequent testimony to the Select Subcommittee, the [redacted] testified that the Croatian inquiries caused him to wonder whether the March inquiry by the Ambassador had gone forward and a covert action proposal was under consideration.[33] The [redacted] presents no factual basis for concluding that an inquiry addressed to him by the Ambassador in the sanctity of the United States embassy, if it occurred at all, is related to an inquiry addressed to the Special Envoy by the Croatian foreign minister five weeks later.

By stringing these conversations together in one cable, the [redacted] gave the impression that the question being raised by the Croatians was based on the earlier Galbraith inquiry. This report is a compelling example of why the [redacted] was admonished on several occasions about the quality of his reporting. The [redacted] suspicion over a theoretical discussion the ambassador allegedly had with him about finding ways to arm the

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[32] Special Envoy Redman has no recollection of ever expressing such an interest during his time as Special Envoy. Redman Subcommittee Dep. at 86.

[33] [redacted] Subcommittee Dep. at 25.

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Bosnian Muslims was extreme. If an Ambassador must be concerned about conducting a theoretical discussion with one of the most knowledgeable people in the embassy, then the United States government will be denied a thorough airing of views and ideas. In addition, the report contains rank hearsay that amounts to little more than gossip and rumor mongering with respect to the tales told by the DCM about the Special Envoy. This reporting of such gossip and rumor about U.S. officials is not intelligence gathering and, when it contains an accusation of illegal activity, is absolutely wrong. Moreover, the [redacted] failed to consult with or corroborate any of these stories involving such U.S. officials. Finally, both the Ambassador and the Special Envoy deny the accuracy of the reports, and the DCM denies making the comment about the Special Envoy. [redacted]

On April 21, 1994, the [redacted] reported to headquarters on his conversations with [redacted] regarding the possible shipment of arms to the Bosnians.[34] According to the [redacted] expressed ambivalence toward the resumption of shipments from Iran and elsewhere and asked the United States to identify any such shipments so that Croatia could interdict. The [redacted] responded that the United States enforced the arms embargo and expected others to do the same. The irony of the reporting by the [redacted] is that he appears to suspect the motives and intentions of the United States government colleagues far more than he suspects the Croats. For example, the uncritical report of the remarks by [redacted] fail to note that he is an ultra-nationalist who had strong reasons to oppose any arms for the Bosnians in order to maximize Croatian territorial

[34] [redacted]

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gains in Bosnia. Moreover, [redacted] regardless of his views on shipping arms to the Bosnian Muslims, had strong reasons to want United States intelligence on arms shipments in order to make certain that Croatia received its cut of all arms traversing its territory. The fact that the [redacted] fails to provide this type of intelligence assessment is surprising. [redacted]

The [redacted] reporting on April 20 and 21, 1994, alarmed his headquarters in the United States by giving the impression that an unauthorized covert action might be underway. On April 21, 1994, headquarters responded informing the [redacted] that the idea shared by the ambassador in March clearly fell within the definition of a covert action.[35] The reporting also led to a series of responses by [redacted] headquarters that contained wholly inaccurate legal advice by desk officers without any legal consultation or supervision. This advice was wrong, but it was relied upon by the [redacted] throughout his dealings on this matter with the Ambassador. In testimony to the Select Subcommittee, the [redacted] acknowledged that he believed United States acquiescence to the transshipment of Iranian arms through Croatia into Bosnia would be a covert action.[36] This incorrect legal advice ultimately led the [redacted] to conclude that the "no instructions" response suggested a covert action was

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[35] [redacted] (Such an operation would require a presidential finding and notification of Congress.)(emphasis added). [redacted] For a discussion of the elements of covert action and what activity actually necessitates a Presidential finding, see Chapter One Section Five, supra. The Deputy Chief of Mission indicated to the Subcommittee that an issue as important as this would have prompted consultation with supervisors and covert activities specialists. Select Subcommittee Deposition of [redacted] Aug. 16, 1996, at 36 (hereinafter [redacted] Subcommittee Dep."). In this instance, however, the Deputy Chief had no specific recollection of having gone to her superiors before informing the [redacted] that the Ambassador's proposal would require a finding. Id. [redacted]

[36] [redacted] Subcommittee Dep. at 25. [redacted]

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underway. This miscommunication in mid-April contributed to the breakdown of communication between [redacted] headquarters and the rest of the Executive Branch. The confusion caused by this miscommuniation was compounded at Embassy Zagreb by multiple conversations between the [redacted] and the DCM in which the latter offered up rumors and speculation about confusion at the Department of State, negative attitudes toward the Ambassador and the Special Envoy, and activities of various United States officials, all of which was dutifully reported by the [redacted] The miscommunication about the "no instructions" response and surrounding events in the Balkans that occurred between the CIA and other Executive Branch agencies is discussed in more detail in Chapter Two, Section Two of the Minority Views.

Contacts with the United States Defense Attache.

On or about April 18, 1994, Lieutenant Colonel Richard Herrick, the United States Defense Attache to Croatia,[37] met with Croatian Defense Minister Gojko Susak at the Croatian Ministry of Defense.[38] The Defense Minister wanted the assistance of the United States in cleaning up the remnants of an exploded ammunition dump outside of Zagreb.[39] [redacted]

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[37] In addition to serving as the military adviser to the ambassador, the Defense Attache serves as a diplomatically recognized military observer in an accredited country. Select Subcommittee Deposition of LtCol. Richard C. Herrick, Aug. 20, 1996, at 13 (hereinafter "Herrick Subcommittee Dep.").

[38] Id.

[39] Id. at 13, 30. The Croatian request required an experienced United States military team to provide technical assistance to the Croatians on retrieval of unexploded ordnance that was lying in a Zagreb suburb. Id. at 13. Once Ambassador Galbraith learned of the matter, he contacted the Departments of State and Defense and informed them of the request. Although the Department of Defense initially was concerned that such aid would constitute military assistance in violation of the U.N. embargo, the Department of State and others determined that such assistance was not in violation of the embargo and could proceed. Id. at 30. The Department of

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[redacted][40] Throughout its Final Report, the Majority alleges that Ambassador Galbraith was instrumental in the coordination and implementation of the arms pipeline. Given that Defense Minister Susak had been approached by so many different people over the course of one week, it is obvious that this was not an endeavor coordinated by Ambassador Galbraith, but rather a Bosnian initiative in which the Croatians and Iranians were active participants. [redacted]

[redacted]

State concurred with Ambassador Galbraith's conclusion that this amounted to humanitarian assistance. Id. This request for assistance is similar to a request for assistance with a missile inspection posed by the Croatians a year later which is discussed, infra, Chapter Two, Section Seven.

[40] Id. at 14.

[redacted]

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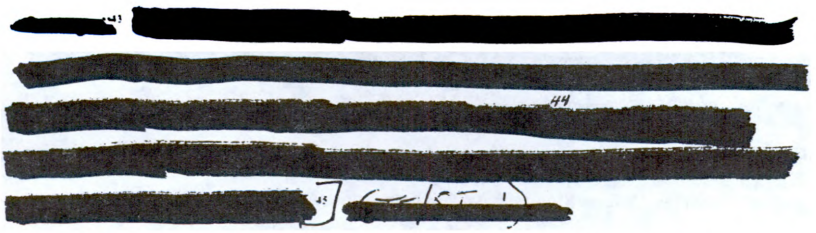
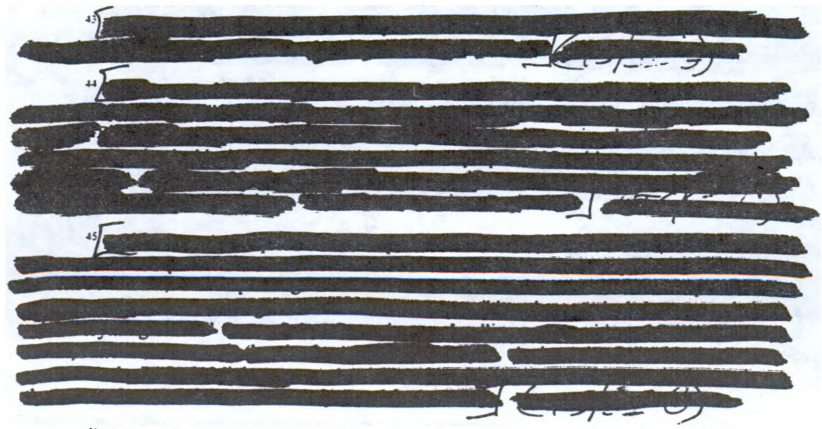


The Susak inquiry did not surprise the Defense Attache. He knew that despite the arms embargo in place throughout the region, weapons flowed to the warring parties.[46] The Defense Attache informed the DCM of his meeting with Minister Susak upon his return to the embassy.[47] The DCM recommended that the Defense Attache forward a report of the conversation through



[46] Herrick Subcommittee Dep. at 16. Herrick noted as an example weapons he had seen in the Croatian army that could not have been part of its inventory unless weapons were streaming through the embargo. Id.

[47] Herrick Subcommittee Dep. at 18. The DCM was in charge of the embassy at the time the Ambassador was on travel.

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his usual channels.[47] Such routine reporting would include notifying the ambassador of the exchange upon his return.

In the days following, various members of the country team in Embassy Zagreb anticipated further Croatian government queries to United States officials about the United States reaction to opening an arms pipeline to Bosnia. At no time was any member of the country team approached about United States arms being supplied, or about the United States undertaking any other action on behalf of the Bosnians. Each inquiry and approach sought only the United States reaction to arms transshipped through Croatia to Bosnia. Although the [redacted] did not remark on the consistency of the inquiries, they constitute firm evidence that no broader United States role was expected. The [redacted] learned from [redacted] was planning to ask Ambassador Galbraith what the United States reaction would be if Croatia allowed weapons to flow to Bosnia. The number and variety of sources within the Croatian government who raised the same question of arms shipments with U.S. government officials during the week of April 18, 1994, is additional evidence that the March discussions between the Ambassador and th[redacted] were unrelated. [redacted]

Ambassador Galbraith was traveling when the Croatian inquiries occurred, but he returned to the embassy on April 24, 1994.[49] The Ambassador learned for the first time of the Croatian request for the United States reaction to arms transshipments to the Bosnians.[50] The

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[48] Id. at 18-19.

[49] Ambassador Galbraith had attended a Chief of Mission conference in Brussels and traveled in Italy prior to returning to the embassy. Galbraith Subcommittee Dep. at 5.

[50] Id.

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DCM described the Croatian attempt to raise the issue with Special Envoy Redman during a meeting with Foreign Minister Granic.[51] Based on this information from the DCM, the Ambassador decided to meet with the Croatians to understand better what was needed from the Department of State in terms of guidance.[52]

Ambassador Galbraith also met with the Defense Attache, the [redacted] and the DCM to be briefed on events that occurred while he was gone.[53] Among other things, the four discussed the Croatian inquiries regarding the United States reaction to the resumption of a formal arms pipeline between Croatia and Bosnia.[54] The discussion focused particularly upon the potential Iranian involvement in an arms pipeline.[55] According to the Defense Attache, none of the participants "felt comfortable dealing with Iran."[56] The Defense Attache sensed a division within the Croatian Government about dealing with Iran.[57] Defense Minister Susak for example did not favor the relationship with Iran, but he recognized that an agreement to transship Iranian

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[51] Galbraith Subcommittee Dep. at 5.

[52] Id. Neitzke had explained to Ambassador Galbraith that Granic had not been clear in his discussions with Redman that the Croatians were seeking a policy stance from the United States. Id.

[53] Herrick Subcommittee Dep. at 19; [redacted] Subcommittee Dep. at 21. DCM Neitzke does not recall having been in a meeting in which the ambassador was made aware of the liaison and defense channel inquiries. Neitzke Subcommittee Dep. at 63.

[54] Id.; see also, [redacted] Subcommittee Dep. at 24 (describing a meeting at which he and the Defense Attache relayed their individual discussions with the Croatians).

[55] Herrick Subcommittee Dep. at 23.

[56] Id.

[57] Id. at 15.

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weapons to the Bosnians would provide weapons for Croatia.[58] The [redacted] previously was aware that the [redacted] official and the foreign minister were skeptical of the plan. [redacted]

Among the four embassy officials, the [redacted] was most vocal in his opinions against Iran.[59] The DCM also was uncomfortable with the Iranian involvement.[60] According to the Defense Attache, no one really objected to the arms getting to the Muslims because each accepted that the Muslims could not defend themselves.[61] Thus, each of the four was on notice that the Bosnian Muslims were receiving arms, including Iranian arms. Moreover, no one expressed the view that the United States should stop the arms flow by telling the Croatian government to resist the transshipment. [redacted]

According to the [redacted] Ambassador Galbraith questioned the accuracy of the Defense Attache's response to Susak and asked him to arrange a meeting with the defense minister so that Susak could pose the question directly to the Ambassador.[62] Ambassador Galbraith wanted the question posed in the foreign policy channel rather than the defense or

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[58] Id. at 16. As discussed elsewhere in this report, the Croatians had transshipped weapons previously to the Bosnians prior to the outbreak of hostilities between Bosnian Muslims and Croats. It was standard practice for the Croatians to take a minimum of twenty-five percent of the weapons for themselves.

[59] Id. at 23.

[60] Id.; Neitzke Subcommittee Dep. at 157.

[61] Id.

[62] [redacted] Subcommittee Dep. at 24. Although LtCol. Herrick recalled the ambassador's query about his response to Susak, he does not remember ever being asked by Ambassador Galbraith to arrange a meeting with the Defense Minister so that the question could be posed to him. Herrick Subcommittee Dep. at 21. Galbraith also had met with Foreign Minister Granic upon his return. Id. Susak and Granic both indicated that in his meeting on April 28, 1994, President Tudjman would raise this question formally with the Ambassador. Id. at 6, 8. [redacted]

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intelligence channels so that an authoritative foreign policy response could be formulated and communicated. The Ambassador also anticipated the question being posed by the Croatian president and wanted the Department of State to begin consideration of the request in the event the Croatians posed the question again formally.[63] [redacted]

Events of April 27 and April 28, 1994.

During the period between April 27 and April 29, 1994 the United States response to the Croatian question was formulated and debated. Senior officials at the National Security Council, the Department of State, and Embassy Zagreb remained in constant communication via telephone calls, meetings, and cables. The Ambassador transmitted a cable in which he advocated a response favorable to the transshipment of arms; however, he also addressed the risks and benefits of doing so, including the likely involvement of the Iranians.[64]

Sometime during the three days prior to April 28, 1994,[65] Ambassador Galbraith spoke by telephone to Alexander Vershbow, the Principal Deputy Assistant Secretary for European and Canadian Affairs (the "DAS"). The Ambassador recounted what he and other embassy officials

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[63] [redacted] Subcommittee Dep. at 31; Neitzke Subcommittee Dep. at 64. [redacted]

[64] Department of State Cable by Ambassador Galbraith, Apr. 27, 1994.

[65] Vershbow maintained contemporaneous notes of his conversations regarding the Bosnian issue with Ambassador Galbraith and others. The notes, however, were not dated at the time and Vershbow subsequently added dates to his notes. The page memorializing this call has the dates 4/25, 4/26 and 4/27 written at the top to indicate when the conversation may have occurred. In a cable dated April 27, 1994, Mr. Vershbow makes reference to a conversation he had with Ambassador Galbraith on "Tuesday," so it is likely that this conversation took place on April 26, 1994.

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had heard from the Croatians, namely that the Croatians were feeling pressure from the Iranians and Bosnians to begin supplying arms to the Bosnians. Ambassador Galbraith indicated that he had a meeting scheduled with President Tudjman and he believed President Tudjman might use the occasion to ask the United States reaction to transshipment of arms, including shipments from Iran, through Croatia to Bosnia.[66] Ambassador Galbraith and the DAS discussed the implications of the Croatians reestablishing the pipeline including the likelihood that the arms shipments would be detected by NATO and UNPROFOR forces.[67]

Ambassador Galbraith emphasized the importance of the matter to Croatia and the United States and the need for guidance quickly. He also indicated that the guidance should come from a higher authority than the Deputy Assistant Secretary.[68] Ambassador Galbraith informed Vershbow that the Croatians would take a percentage of the weapons for themselves as payment.[69] The Ambassador requested instructions in the form of a cable and again advocated a response that would promote the Federation.

Following the telephone call, Ambassador Galbraith sent a cable to Washington specifically addressing each of the points discussed with Vershbow and requesting immediate

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[66] Select Subcommittee Deposition of Alexander Vershbow, Aug. 8, 1996, at 14 (hereinafter "Vershbow Subcommittee Dep."); Galbraith Subcommittee Dep. at 16.

[67] Vershbow Subcommittee Dep. at 14-15.

[68] Id. at 15.

[69] Id. at 16. [redacted]

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guidance.[70] Ambassador Galbraith again addressed the Iranian concern and noted that Croatia should be cautioned against becoming too close with Iran.[71] Ambassador Galbraith explained that opening the pipeline would pave the way for increased arms flows from other countries besides Iran, but that Iran - which was so eager to be seen by the world as Bosnia's savior - was in the best position to provide arms immediately.[72] He also reiterated his belief that blocking this arrangement between Bosnia and Croatia would be disastrous to the Federation which was absolutely critical to peace in the region.

Deputy Assistant Secretary Vershbow characterized this conversation as the correct way for "[Ambassador Galbraith] to bring an issue like this" to his attention.[73] Vershbow acknowledged that the ambassador was advocating a certain position, namely that the arms should be allowed to proceed, as any ambassador would on an issue of importance.[74] It was an ambassador's responsibility to recommend positions to facilitate the formulation of policy in Washington. Vershbow believed that the Ambassador was providing Department officials with

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[70] Department of State Cable, Apr. 27, 1994.

[71] Id. The Croatian-Iranian-Bosnian relationship was a constant subject of concern for the United States. As mentioned throughout the Minority Views, the Iranians had already established themselves in the region by April 1994 (some estimates trace Iran's presence back to 1979). Whenever the subject of Iranian involvement arose, United States officials responded that caution should be used and reminded the Croatians and Bosnians that if they aligned themselves with the west, strong relations with Iran would not be tolerated. United States officials recognize, however, that most European countries maintain diplomatic ties with Iran and that Bosnia, as a European country with a largely Muslim population, was unlikely to sever all ties to Iran, so they consistently encouraged the Bosnians to temper their dealings.

[72] Id.

[73] Vershbow Subcommittee Dep. at 17.

[74] Id. at 54.

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as much information in advance so that they could make a decision promptly before his meeting with President Tudjman.[75]

Deputy Assistant Secretary Vershbow Discusses the Matter with the Undersecretary.

Following his conversation with Ambassador Galbraith, Vershbow met with Undersecretary for Political Affairs Peter Tarnoff ("the Undersecretary"),[76] the principal person overseeing the Bosnian issue for the Department. This meeting concerned a variety of issues relating to Bosnia.[77] Undersecretary Tarnoff informed the DAS that Thomas Donilon, the Chief of Staff for the Secretary of State, had sent a message from Secretary Christopher encouraging a "quick response" to Ambassador Galbraith's query.[78] The Secretary did not believe that the meeting with President Tudjman should be an "artificial" deadline for the United States to formulate a response;[79] however, if a response would be required he did not want the

[75] Id. at 17-18.

[76] Ambassador Galbraith attempted to contact Tarnoff directly by telephone prior to the Vershbow meeting but was unsuccessful. Tarnoff Subcommittee Dep. at 30.

[77] Vershbow Subcommittee Dep. at 18.

[78] Id. at 27; Tarnoff Subcommittee Dep. at 6. According to Vershbow, Secretary of State Christopher was traveling during this time and Donilon would have been accompanying him. The fact that Donilon had sent a message about this issue suggested to Vershbow that Ambassador Galbraith's cable of April 27 had been received by at least some in the Department prior to his meeting with Tarnoff. Id. at 27. Donilon could not recall the exact conversation memorialized in Vershbow's notes although he did not dispute the accuracy of the quote attributed to him. Select Subcommittee Deposition of Thomas Donilon, Sept. 12, 1996, at 15-16 (hereinafter "Donilon Subcommittee Dep.").

[79] According to a cable transmitted to Ambassador Galbraith by Vershbow on April 27, 1994, the Secretary had expressed his view that the United States not respond to such an important inquiry according to someone else's - in this case President Tudjman's - timetable. Vershbow explained that as of April 27, the Department had no guidance for Ambassador Galbraith on the Croatian inquiry. This cable, which in subsequent testimony neither Vershbow

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Ambassador to be left without a response and he wanted that response carefully formulated and communicated."[79]

Administration officials were aware that arms had been and were continuing to reach the Bosnian Muslims despite the arms embargo. The import of the question being posed to Ambassador Galbraith, therefore, was not whether Croatia should send arms in a formal way, but rather how the United States would react to such shipments.[81] Tarnoff and Donilon had discussed already the issue of how to respond to President Tudjman's second request for the United States position on the arms transshipments,[82] and were aware that Iran was a likely arms supplier.[83] Donilon and Tarnoff relayed this information to the Secretary personally.[84]

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nor Ambassador Galbraith recalled, contributed to Ambassador Galbraith's belief in the early morning hours of April 28 that "no instructions" really meant that the Department had not yet formulated a response.

[80] Deputy Assistant Secretary Vershbow's Contemporaneous Notes. Vershbow's notes indicate that Donilon reported that there was to be "no funny business" in the region which reflected the Secretary's commitment to having a coordinated response to the Croatian inquiry.

[81] Tarnoff Subcommittee Dep. at 11.

[82] Donilon Subcommittee Dep. at 11.

[83] Id. at 16. Donilon concurred with others involved in formulating this policy that the issue of Iran was cause for serious consideration and debate and likely was the reason it took so long to respond to Ambassador Galbraith's request for guidance. Id. Donilon explained that the Secretary also was deeply concerned "on an ongoing basis about the Iranian presence in the Balkans." Id.

[84] Id. at 12-13; Tarnoff Dep. at 10. When Tarnoff learned of this issue, he maintained close contact with Deputy National Security Advisor Sandy Berger, and the Secretary because he believed that it was a timely and sensitive issue. Tarnoff Dep. at 10.

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Vershbow recalled that there was no other discussion about the Galbraith cable as everyone present generally seemed to be aware of its contents.[84]

Vershbow and Tarnoff concluded the meeting after discussing other matters related to Bosnia. Although the Croatian inquiry was a highly sensitive matter, the need to address so many other significant issues concerning the region limited the amount of time devoted to the response at this meeting. Throughout the day, however, Administration officials continued to discuss the options available to them and to shape a response to the impending question.[85]

Deputy Assistant Secretary Vershbow's contemporaneous notes contain reference to a second phone call, probably initiated by Ambassador Galbraith, on April 27, 1994.[86] In this conversation, Ambassador Galbraith informed Vershbow that his meeting with President Tudjman had been scheduled for 11:30 a.m. the following day.[87] Ambassador Galbraith also continued to discuss with Vershbow the United States reaction to arms shipments through Croatia.

Ambassador Galbraith expected a formal request by President Tudjman on the United States reaction to arms being sent through Croatia to the Muslims.[88] Reference also was made in

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[84] Vershbow Dep. at 28-30. Undersecretary Tarnoff recalled that he received the cable from Ambassador Galbraith almost immediately after it arrived and he was aware that Vershbow and others had seen it also. Tarnoff Subcommittee Dep. at 10.

[85] See, e.g., Tarnoff Subcommittee Dep. at 30-31 (noting that simultaneous discussions were occurring within the NSC, the Department, and aboard Air Force One about this issue).

[86] Contemporaneous Notes of Alexander Vershbow, Department of State.

[87] Id.

[88] Vershbow Subcommittee Dep. at 32.

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Vershbow's notes to a lunch between Galbraith and Minister Susak which probably provided the basis for the additional information he shared with Vershbow during this second conversation.[90] During this conversation, Ambassador Galbraith informed Vershbow that the Croatian Prime Minister was scheduled to visit Tehran on April 29, 1994, for the express purpose of discussing arms shipments.[91] According to Galbraith, the Iranians felt there was "nothing to discuss if Croatia would not act as a channel."[92] The scheduled visit suggests strongly, therefore, that the Croatian Prime Minister fully intended to agree to arms transshipments.[93] Otherwise, he would have had no reason to travel to Tehran.

Ambassador Galbraith also told the DAS that the arms would arrive via Boeing 747 aircraft and reiterated the Croatian intention to take a cut of probably fifty percent.[94] The

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[90] Id. Although Vershbow did not recollect whether or not the lunch had occurred by the time of this second conversation, it is likely that it had. Galbraith had met with Susak in order to ascertain what it was the Croatians were seeking from the United States. Galbraith Subcommittee Dep. at 8.

[91] Vershbow Subcommittee Dep. at 32; Galbraith Subcommittee Dep. at 9.

[92] Id.

[93] This is also indicative of why resumption of the pipeline was so important to the success of the Federation. Croatia already had agreed to allow arms to transit its territory and for reasons of its own was seeking to ensure the United States would not object. If the United States pressured the Croatians not to resume the arms flows, Bosnia would have been betrayed by her alleged new ally and the Federation would have faltered. This is why a carefully crafted response that ensured absolutely no action on the part of the United States was so important and why the "no instructions" response was ultimately conveyed and was successful in maintaining United States and Croatian/Bosnian interests in the region.

[94] Deputy Assistant Secretary Vershbow's Contemporaneous Notes, Department of State. Ambassador Galbraith does not recall the specifics of this conversation but explained that his primary focus was on the political decision that had to be made by the Department. Galbraith Subcommittee Dep. at 16.

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Majority states that this is clear evidence that Ambassador Galbraith was an active participant in, if not the originator of, the entire arms pipeline deal.[94] Actually, this statement confirms what officials at Embassy Zagreb already understood; the Croatians had agreed to the resumption of the arms pipeline which they believed was highly beneficial to them,[95] and were seeking added support for that decision from the United States. Furthermore, this is exactly the same method employed by the Iranians and Croatians prior to May 1993 for funneling arms to the Bosnians.[96] Given the wide distribution of this information and its availability to anyone having any responsibility for monitoring the Balkan issue, it is difficult to understand how the Majority could possibly presume that this is indicative of Ambassador Galbraith's active participation in the agreement to reestablish the formal arms pipeline.[97]

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[94] Majority Report at 92-93.

[95] Intelligence and military analysts suggest that not only did the pipeline provide additional weapons for Croatian stockpiles, but by enabling the Bosnians to defend and maintain territory against the Serbs, the Croatians could concentrate their efforts on recapturing Croatian territory still held by the Serbs.

[96] There is a vast amount of intelligence that discusses the [redacted] arms shipments that was well known to the foreign policy and intelligence communities prior to April 1994. Given the terrain in the region and the strong enforcement of the embargo by Operation Sharp Guard participants, cargo flights were the only way to get arms to the Bosnians. Furthermore, Boeing 747s are commonly used cargo planes. The only significance of the use of 747s is that they are incapable of ferrying heavy weapons so this is indicative of the fact that the Bosnians only were being supplied with small arms by the Iranians. [redacted]

[97] The Majority also makes note of the fact that no one within the Administration questioned what type or quantity of arms would be shipped to the Bosnians. The fact is Ambassador Galbraith in effect told the DAS exactly what type of arms would be arriving; small arms. If the arms supply was to resume via air shipments from Iran, the only arms that could be delivered would have been light weapons, ammunition, and raw materials, all of which had been shipped previously beginning in 1992. The Administration and intelligence officials had no need to request the specific information from the Croatians because they already had it.

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As in their previous discussion, Galbraith addressed the down sides of the decision, including the Iranian factor, for the Bosnians, Croatians, and the United States.[99] Ambassador Galbraith and the DAS discussed the different options and agreed that the same type of non-responsive response would be the most appropriate.[100] The Ambassador expressed concern about how a "no instructions" response would be interpreted by the Croatians. In both the April 27 cable and his discussions with Vershbow, Ambassador Galbraith suggested that the Croatians would take a "no instructions" response literally and postpone any decision until they heard from the United States differently.[101] [redacted][102] Ambassador Galbraith suggested conveying a more clear response to President Tudjman than "no instructions" which would give the impression that a further response was forthcoming.[103] [redacted]

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[99] See Vershbow Subcommittee Dep. at 32-37. In his April 27, 1994 cable, Ambassador Galbraith also warned that Croatia should be cautioned against building too strong a relationship with Iran.

[100] Id. at 36-38. Vershbow explained that this option clearly was the best because it provided a way to "shore up" and maintain the Federation, which was the focus of United States diplomacy in the region at the time. Id. at 39-40. As a result of that focus, it was implicitly understood that a neutral stance "would likely lead to the opening of the arms flow." Id. at 40.

[101] Galbraith April 27, 1994 Cable at 1; Vershbow Subcommittee Dep. at 40.

[102] Vershbow Subcommittee Dep. at 40. [redacted] that the Iranians were in the best position to provide arms on a continuous basis immediately. Once the pipeline had been reestablished by the Croatians, arms shipments from other countries such as Turkey and Malaysia could proceed in earnest. [redacted]

[103] Id. at 40-41. Although "no instructions" is an understood term within diplomatic parlance, Ambassador Galbraith recognized that President Tudjman may not possess the diplomatic knowledge to understand the nuance of the response. President Tudjman was an academic by background and, while a capable president, had not been on the international scene for many years. Ambassador Galbraith had hoped to convey a response with the same

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During this conversation Ambassador Galbraith intimated that the resumption of an arms pipeline would appeal to the members of Congress in favor of lifting the arms embargo.[104] The Ambassador and Vershbow also discussed the implications of a United States role in the Croatian decision to supply arms. Ambassador Galbraith and Vershbow concurred that, while United Nations Security Resolution 713 called on states to comply with the arms embargo, it did not require enforcement of the embargo against other countries.[105] Ambassador Galbraith reiterated the importance of making a decision[106] on this matter so that he would arrive at the meeting with President Tudjman with guidance.[107] Vershbow ended the conversation by

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connotation as no instructions, but one that would be more easily understood by the Croatian president.

[104] Id. at 42. Throughout 1994 and 1995, Congress attempted to enact legislation that would lift the embargo on the Bosnian Muslims. There was consensus both in the Administration and Congress that the arms embargo was punishing the Bosnian Muslims unfairly. For a detailed examination of congressional involvement in the Balkan conflict, see Chapter One, Sections Three and Four (detailing congressional initiatives and knowledge throughout the Balkan conflict). According to Vershbow's contemporaneous notes, Ambassador Galbraith believed that Congress would see the resumption of arms as a positive step toward helping the Bosnians. Vershbow Subcommittee Dep. at 42-43.

[105] See U.N. Security Council Res. 713, Sept. 25, 1991; Vershbow Subcommittee Dep. at 45-46.

[106] Vershbow Subcommittee Dep. at 48.

[107] Id. Ambassador Galbraith was aware that there were differing opinions on resumption of the pipeline within the Croatian government. As Foreign Minister Granic had intimated in discussions with Special Envoy Redman, and as the intelligence liaison had indicated, some were opposed to the shipment of arms, particularly those from Iran. Others such as Minister Susak approved of the arms shipments primarily because they would increase Croatian stockpiles. Ambassador Galbraith and the DAS believed however, that the ultimate decision would be made by President Tudjman alone. See id. at 51.

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assuring Ambassador Galbraith that the Department was working on the matter and that he would have the necessary guidance.[108]

Ambassador Galbraith Consults with His

At the end of the day on April 27, Ambassador Galbraith met with the to discuss the response to question about the United States reaction to the transshipment of arms through Croatia.[109] Like the Defense Attache's response to a similar question posed by Minister Susak, the what he believed was the United States policy on the arms embargo.[110]

Possessed with the knowledge learned from Vershbow that new guidance was imminent and concerned that the and Defense Attache responses to the Croatian inquiries within their respective channels may have been incorrect, the Ambassador instructed the to indicate that the United States policy was under review if the issue were raised again by or better still to refer to the Ambassador. Of course the source of the Ambassador's concern was not only that an incorrect policy had been transmitted,

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[108] Id. at 61. Vershbow did not, however, inform Galbraith that such guidance would be in writing. Id.

[109] Galbraith Subcommittee Dep. at 10;

[110] Id.

[111] Id.

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but the fact that the [redacted] had used the intelligence channel to transmit policy without first consulting with him.[112] [redacted]

The [redacted] refused the Ambassador's request on the grounds that the response the Ambassador hoped to provide first required a presidential finding[113] and specific instructions from "Washington[, D.C.]"[114] The [redacted] agreed that all policy-related questions should be addressed to the Ambassador.[115] There is no indication, however, that the [redacted] acted upon the Ambassador's request to have [redacted] call the Ambassador directly, although the [redacted] continued to discuss the United States reaction and its results with [redacted] throughout the spring and summer of 1994. [redacted]

The conduct of the [redacted] created special difficulties for the United States policy makers in general and the Ambassador in particular. The [redacted] already had used the [redacted] to communicate what he believed to be United States policy. The communication was soon proven to be incorrect, but the [redacted] now refused to

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[112] In the wake of Iran-contra, use of the intelligence channels to transmit policy generally is discouraged by the CIA. Woolsey HPSCI Dep. at 15. If a special relationship exists between a [redacted] which places him in a better position than the Ambassador to transmit policy effectively to the government, the channel may be used. Select Subcommittee Deposition of Janet Andres, Sept. 30, 1994, at 24 (hereinafter "Andres Subcommittee Dep."). The transmission of policy always is at the discretion of the Ambassador. Id. [redacted]

[113] For a discussion of presidential findings, see supra Chapter One, Section Five.

[114] [redacted] April 28, 1994 [redacted] Subcommittee Dep. at 25. [redacted] had informed the [redacted] on April 20, 1994 that the "question of Croatian assistance in the circumvention of the embargo in exchange for a cut has come to the fore" in light of Redman's meeting with Granic on April 18, 1994. [redacted] April 20, 1994. [redacted]

[115] [redacted] Subcommittee Dep. at 25. Id. at 26-27. [redacted]

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communicate the correct information. Moreover, the fact that [redacted] created a particularly high probability that the President would be confused if a response different than the one given [redacted] was communicated directly to him. This is precisely what occurred. Ironically, as a consequence of this conversation with the Ambassador, the [redacted] began to report more aggressively on the conversations he had with, or were related to him by, United States embassy personnel about the issue of arms delivered through Croatia to Bosnia.[116]

Policy Makers Debate and Formulate a Response to the Croatian Inquiry: Air Force One Discussions.

On April 27, 1994, President Clinton, National Security Advisor Anthony Lake, and Deputy Secretary Strobe Talbott (the "Deputy Secretary") traveled to California aboard Air Force One for the funeral services of former President Richard M. Nixon. During the trip, Talbott and Lake discussed Ambassador Galbraith's impending question from the Croatians[117] as well as the various options available to respond to this request.[118] Deputy Secretary Talbott

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[116] [redacted] Subcommittee Dep. at 26-27.

[117] Talbott Subcommittee Dep. at 30.

[118] Id. There were three options considered seriously for the response to President Tudjman. The first option was to approve the shipments outright. Such action would be known to our allies who were opposed to the lifting of the embargo and could be seen by the Serbs as the United States declaring alliance with the Bosnian Muslims. The second option would be to inform President Tudjman that the United States opposed the shipments. As Ambassador Galbraith suggested, such a position could lead to the breakdown of the Federation and the further military strangulation of the Bosnian Muslims. The final option was to inform President Tudjman that the ambassador had "no instructions" thus allowing the Croatians to pursue the proposal while not offending the allies. For a detailed analysis of the available policy options, see supra Chapter One, Sections Three and Four.

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and Lake, as well as the other policy makers involved, reached a consensus that the "no instructions" response was the best option available to the United States.[119] Talbott and Lake knew that the Iranian presence already was established in the region because of the ongoing hostilities and that the only way to remove them would be through establishing peace. The continuation of the Federation and the establishment of some military balance among the warring factions was essential to that peace.

Reestablishing the pipeline likely would accomplish the latter two requirements; therefore, the United States accepted the Iranian presence as a necessary risk.[120] In reaching this decision, the policy makers carefully considered the Iranian factor when weighing the available options and clearly realized that an increased Iranian presence was a drawback to this option.[121] The "no instructions" response, however, represented what the National Security Advisor and the Deputy Secretary believed to be the best of the imperfect options available to the United States.

The "no instructions" response did not reflect a change in the United States policy toward the embargo; the Clinton Administration vehemently opposed the application of the embargo on the Bosnian Muslims and had taken only minimal steps to enforce the embargo against them.[122]

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[119] Tarnoff Subcommittee Dep. at 8.

[120] Talbott Subcommittee Dep. at 34-35. See also Tarnoff Subcommittee Dep. at 9 (noting that "it was commonly held that the Iranians were already present in Bosnia.").

[121] Talbott Subcommittee Dep. at 34.

[122] Prior to war breaking out between the Bosnian Croats and Bosnian Muslims in May 1993, routine shipments of arms were detected by Western intelligence sources. Except for those interdicted at sea, none of these known shipments were stopped during the Clinton administration. Even after the war had restricted the formal pipeline between Croatia and Bosnia, arms continued to trickle in to the Bosnian Muslims. Intelligence indicated that these

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Further, the "no instructions" response would not constitute a violation of the arms embargo by the United States.[123] Responding in this manner allowed the United States to avoid taking a position that was opposed by our allies, maintain the efficiency of the Federation which the United States saw as imperative to securing peace in the region, and enable the Bosnian Muslims to obtain light arms.

National Security Advisor Lake presented the proposed response to President Clinton aboard Air Force One.[124] The President affirmed the course of action that had been outlined for him.[125] Deputy Secretary Talbott contacted Undersecretary Peter Tarnoff, who was Acting Secretary in Talbott's absence, to make certain that the response and the reasons for it were conveyed accurately.[126] Tarnoff relayed the decision to Thomas Donilon who informed the Secretary of State of the President's decision.[127] Although the Secretary had not participated

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arms were available on the black market, smuggled in on relief convoys, or transported by UNPROFOR contingents.

[123] United Nations Security Resolution 713 required states to refrain from delivering arms to any state of the former Yugoslavia but it did not require states to enforce the embargo with regard to third countries.

[124] Id. at 31.

[125] Id.

[126] Id. at 32. Undersecretary Tarnoff recalls having discussions on this issue with Sandy Berger, the Deputy National Security Advisor. According to Tarnoff's recollection, Berger was in touch with Air Force One and he actually informed Tarnoff that the instructions to Galbraith were to convey "no instructions." Tarnoff Subcommittee Dep. at 5. Although witness recollections differed slightly on this series of conversations, the Minority concludes that Undersecretary Tarnoff and other key figures were kept adequately informed throughout the process.

[127] Donilon Subcommittee Dep. at 13. Tarnoff had been in contact with Donilon throughout the day and the Secretary was aware fully that these policy discussions were ongoing

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directly in the policy discussions occurring in Washington and aboard Air Force One, he concurred with the decision.[128]

The Majority takes note that none of the options considered by the Administration included prohibiting Iranian arms from transiting Croatia, but allowing "more palatable and less dangerous sources" of arms to arrive.[129] But the question posed to United States officials throughout April 1994 by the Croatians was not what the United States position on an Iranian arms pipeline to the Bosnians would be, but rather, whether the United States would object to the resumption of the arms pipeline which consisted of, among others, Croatian, Turkish, Malaysian, South African, and Iranian arms. An attempt to exclude Iranian weapons to the Bosnians would have created very difficult practical problems. The United States would have been forced to be more active in securing arms from other countries which would have created problems with our allies; and it would have forced the Bosnians - and the Croatians - to become more dependent on

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in Washington and aboard Air Force One. Id; Tarnoff Subcommittee Dep. at 7.

[128] Donilon Subcommittee Dep. at 15. Donilon testified that the Secretary gave no opinion on the matter other than an "okay" when informed of the policy decision. Id.; see also Tarnoff Subcommittee Dep. at 8 (explaining that the bulk of his conversations with the Donilon and the Secretary concerned the available options and risks involved in each response). Donilon explained, however, that if the Secretary had any concerns or disagreements with the position, he would have registered those with the policy makers in Washington directly. Donilon Subcommittee Dep. at 14-15; Tarnoff Subcommittee Dep. at 10. The Department of State has a system in place whereby the Acting Secretary has the full authority to act while the Secretary is traveling without seeking the Secretary's input into a particular matter. Id. at 33-35. If, however, in an instance such as this one the Acting Secretary believes that the Secretary should know of the events occurring, an elaborate communications network is available. Id. at 34. In this case Undersecretary Tarnoff believed the issue important enough to keep the Secretary informed throughout the entire process.

[129] Majority Final Report at 97.

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the United States to screen all the arms entering the region to ensure they were not Iranian. Such an effort would have attracted more attention to the shipments and impeded the arms flow. The whole purpose of the "no instructions" response was to make sure that the United States took absolutely no active position on the arms pipeline.

Ambassador Galbraith Receives "No Instructions" and Responds to the Croatian President.

Deputy Assistant Secretary Vershbow contacted Ambassador Galbraith in the early morning hours of April 28, 1994, and relayed the Administration's response.[130] Over an open line from his home, Vershbow informed Ambassador Galbraith that he should tell Tudjman that he had "no instructions."[131] At the time, Ambassador Galbraith understood this to mean that the State Department had not yet formulated a response.[132]

Ambassador Galbraith went to his meeting with President Tudjman.[133] The meeting

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[130] Ambassador Galbraith believes the telephone call came at 6:30 a.m. Zagreb time. Galbraith Subcommittee Dep. at 21.

[131] Vershbow Dep. at 63. Vershbow could not recollect on whose authority he made the call, but he presumed it came from Undersecretary Tarnoff. Vershbow admits that this phone call may have been "rather cryptic" because it was made on an unsecure line from his home. Vershbow made the telephone call late at night, Washington time, to compensate for the time difference and not wake the ambassador too early in the morning, Zagreb time. Id.

[132] Galbraith Subcommittee Dep. at 22. In hindsight, however, the Ambassador believes that he was aware through his earlier conversations that the "no instructions" response was heavily favored in Washington, but because Vershbow was on an open line the specificity of that decision was not conveyed. Id.

[133] Also in attendance at this meeting was Tom Mittnacht, the economic officer for the embassy who served as a note taker, and possibly Professor Paravic, a Croatian national who served as President Tudjman's translator although the President did speak English. Galbraith Subcommittee Dep.at 23.

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concerned a variety of issues outside of the arms transshipments,[134] and when President Tudjman posed the question, Ambassador Galbraith informed him that he had no instructions because Washington had not yet issued a response.[135] Ambassador Galbraith believed that President Tudjman was not satisfied with this answer and had hoped for something more definitive.[136]

After the initial meeting with President Tudjman, Ambassador Galbraith sent a cable to the Department of State reporting the details of his conversation and requesting further guidance.[137] Ambassador Galbraith's cable was critical of the position in which he had been placed as a result of having to tell President Tudjman that he had no instructions. Ambassador Galbraith reiterated his belief that this query by the Croatians was of great import and should be treated as such by the United States.[138] Ambassador Galbraith believed strongly that the United States should be able to respond to a diplomatic request in a timely manner, especially one with as much potential significance to the survival of the Bosnian Muslims and the future of the newly created Federation and the success of peace in the region.[139] Ambassador Galbraith cabled

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[134] Id. at 24-25; Galbraith Cable, Zagreb 1721, Apr. 28, 1994.

[135] Galbraith Subcommittee Dep. at 23.

[136] Id. at 25.

[137] Galbraith Outgoing Cable, Apr. 28, 1994.

[138] Id. Galbraith explained in testimony that although arms had flowed previously to the Muslims via Croatia, it was a trickle of little significance. Further, Croatia had faced United States as well as international sanctions in February 1994 resulting from its support of the Bosnian Croats during the Muslim-Croat war. Having emerged from that, Croatia did not want to take any actions that would run afoul of United States policy and possibly bring sanction threats again. Galbraith Subcommittee Dep. at 27. This is why the Croatians broached the subject at all with the United States and why it was of such importance to them. Id.

[139] Id. at 27.

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Washington but heard nothing in response until his conversation with Jenonne Walker on April 29, 1994.[140]

Vershbow testified that on the afternoon of April 28, 1994, he discussed the Croatian inquiry with Ambassador Charles Redman.[141] Vershbow's notes of the conversation record Redman remarking to Vershbow that President Tudjman had requested his presence in Zagreb to discuss, among other things, arms shipments from Iran.[142] Redman indicated to Vershbow that he would go to Zagreb on Friday afternoon and, if he had instructions, he would convey them.[143]

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[140] Id. at 28. Ambassador Galbraith did not recall having any other conversations with Vershbow on April 28; however, Vershbow believes that he spoke again with Ambassador Galbraith on April 28 to clarify that the United States position on this matter was that the ambassador had no instructions with regard to the Croatians facilitating arms transfers to the Bosnians. Vershbow Subcommittee Dep. at 63.

[141] Vershbow Subcommittee Dep. at 70. Vershbow's contemporaneous notes place the conversation at 12:45 p.m., Washington, D.C. time. Special Envoy Redman has no recollection of this conversation. Select Subcommittee Deposition of Charles Redman, Aug. 27, 1994 at 38 (hereinafter "Redman Subcommittee Dep."). Special Envoy Redman frequently telephoned the Department of State, the National Security Council, and the Department of Defense during his negotiations. See, e.g., Redman Subcommittee Dep. at 39 (noting, "I was in touch with as many people as I could all the time"); Vershbow Subcommittee Dep. at; Select Subcommittee Interview of Jenonne Walker, Aug., 21, 1996, at 1 (hereinafter "Walker Subcommittee Int.")(stating that "when Charles Redman was Special Envoy he had almost daily contact with the NSC staff. . . .").

Special Envoy Redman had been appointed by President Clinton to replace the former Special Envoy Reginald Bartholemew. Redman had just concluded the Washington Accords and was in the midst of continuing Federation agreements and Contact Group meetings during this time.

[142] Vershbow Subcommittee Dep. at 70. Redman recalls that the purpose of his meeting with President Tudjman was to brief him on the contact group meetings. Redman Subcommittee Dep. at 41.

[143] Vershbow Subcommittee Dep. at 70-71. Vershbow could not recollect how this issue had come to Redman's attention. He surmised that Redman had become aware through Galbraith's reporting cables. Id. at 70. In addition to many executive agency and Department

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Vershbow cannot recollect clearly whether he informed Redman of the emerging "no instructions" policy, but assumes that he must have since the call would have been on a secure telephone line.[144]

Events of April 29, 1994: The Question Is Posed Again.

On April 29, Vershbow drafted a cable to Ambassador Galbraith which was never transmitted.[145] Vershbow testified that the cable had been written after at least one of Ambassador Galbraith's meetings with President Tudjman, and given the time difference, may have been written after both meetings.[146] The cable was merely a written record of the instructions that Galbraith already had received orally, according to Vershbow.[147] The "no instructions" response was the formal United States position on the matter and the cable merely

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personnel, Redman was "tagged" to receive Ambassador Galbraith's outgoing cables. See Galbraith Outgoing Cable, Apr. 27, 1994.

[144] Vershbow Subcommittee Dep. at 72. Vershbow's recollection could not be refreshed by his notes as there is no indication of what he told Redman during the call. During this conversation, Redman further explained that in his dealings with Bosnian Prime Minister Silajdzic, it was the Bosnian belief that the Croats wanted money rather than arms and that pending economic contracts with Iran were being held up through "Bosnian/Iranian contrivance." Id. at 71.

[145] Id.

[146] Id.

[147] Id. at 63. Other than the cryptic "no instructions" response he received from Vershbow in the early morning hours of April 28, 1994, Ambassador Galbraith does not recall speaking with the DAS prior to his conversation on the evening of April 29, 1994 with Jenonne Walker of the NSC. Vershbow believes, however, that he may have telephoned Ambassador Galbraith again on April 29 to reiterate the "no instructions" response and that it was after this call that the cable was drafted. Id. at 61, 63.

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was an ex post facto historical record of those instructions.[148]

Special Envoy Redman arrived in Zagreb on April 29, 1994, and together with the Ambassador, was scheduled to have dinner with President Tudjman.[149] Ambassador Galbraith expected that President Tudjman would renew his inquiry as to the United States reaction to Croatia's transshipment of arms to Bosnia.

Ambassador Galbraith telephoned Special Envoy Redman prior to his arrival at Embassy Zagreb[150] and asked the Special Envoy to his residence prior to the dinner as he had something to discuss with him. Ambassador Galbraith was eager to engage Special Envoy Redman on the anticipated request prior to the meeting because of his knowledge of the region and of Balkan issues.[151] Ambassador Galbraith believed that the Special Envoy's involvement would elicit a response from Washington and that his presence at the Tudjman meeting would be beneficial.[152]

Ambassador Galbraith Contacts the NSC for Final Guidance.

That evening, Ambassador Galbraith and Special Envoy Redman met in the embassy residence. Ambassador Galbraith elaborated on his earlier, cryptic message and explained that

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[148] Id. The draft cable read in pertinent part:
If the subject [of arms shipments through Croatia] is raised again, you should state that you have no instructions on this matter. . . . This has been reviewed at high levels within the United States government.

[149] Redman Subcommittee Dep. at 41.

[150] Id. at 40.

[151] Galbraith Subcommittee Dep. at 35.

[152] Id. at 35-36.

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he was still awaiting further guidance on responding to the forthcoming Croatian question.[153] Ambassador Galbraith informed Special Envoy Redman that he would call the National Security Council ("NSC") to see if he could obtain further guidance.[154] Special Envoy Redman concurred because he also felt that this issue was particularly important to the future of the Federation.[155]

The Defense Attache also was present at the residence[156] to discuss the recent request for technical assistance from the Croatians[157] as well as the anticipated question from Tudjman.[158] The Defense Attache placed the call to Jenonne Walker at the NSC[159] on behalf of Ambassador Galbraith.[160] Ambassador Galbraith first discussed Susak's request with Walker and then

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[153] Id. at 41.

[154] Id.; Galbraith Subcommittee Dep. at 30.

[155] Redman Subcommittee Dep. at 42.

[156] Herrick Subcommittee Dep. at 25.

[157] Id.; see, supra n.9 (discussing the Croatian request for assistance with an exploded ammunition dump.) The Defense Attache and Ambassador Galbraith had discussed this matter previously and had concurred that they should telephone Walker. Herrick Subcommittee Dep. at 27. LtCol. Herrick indicated that the United States did send a team to assist the Croatians with the ammunition dump "within the next couple of days" after this telephone call. Id. at 30.

[158] Redman Subcommittee Dep. at 42. Ambassador Galbraith believes that he may have discussed the ordnance matter with Jane Hall, another NSC staff person, prior to speaking with Jenonne Walker, although both conversations occurred during the same telephone call. Galbraith Subcommittee Dep. at 30.

[159] Jenonne Walker was the senior NSC staff member responsible for the Balkans.

[160] Redman Subcommittee Dep. at 26.

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informed her of the impending meeting with President Tudjman.[161]

Special Envoy Redman and the Defense Attache were present in the room during Ambassador Galbraith's conversations with Walker about the impending question from the Croatians.[162] Walker informed the ambassador that the response to the question was to be "no instructions."[163] Ambassador Galbraith understood Walker was relaying these instructions directly from Anthony Lake.[164] Ambassador Galbraith was told that Lake had relayed the instructions with "a smile and a raised eyebrow."[165] When Ambassador Galbraith concluded his conversation, he had no doubt that the "no instructions" response was the formal United States reply to be conveyed to the Croatian government and that it was supported by both the National

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[161] Herrick Subcommittee Dep. at 26.

[162] Id.

[163] Jenonne Walker recalls telling Galbraith that he was to inform President Tudjman "that the United States would comply with the embargo, but that he had no instructions as to Croatia." Walker Subcommittee Int. at 1.

[164] Galbraith Subcommittee Dep. at 29. Jenonne Walker recalls giving Galbraith the no instructions advice prior to discussing the matter with Anthony Lake. Walker Subcommittee Int. at 1. Walker stated, however, that Lake concurred with her instructions to Galbraith and, in fact, instructed her to reiterate them for Ambassador Galbraith. Id. The fact that Walker does not recall events in the same sequence as the other witnesses to this conversation is not a matter of substance as she does recall that the instructions given to Galbraith were 1) the United States complies with the embargo, and 2) there are no instructions with regard to the Croatian question which is consistent with the testimony of other witnesses.

[165] Galbraith Subcommittee Dep. at 31. Jenonne Walker does not recall whether she contacted the Ambassador again after discussing this matter with Anthony Lake, but she believed it logical that she would have. Walker Subcommittee Int. at 1-2. Walker had no recollection of Lake confirming the "no instructions" with a smile and raised eyebrows. Id. at 2.

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Security Council and the Department of State.[166]

After Ambassador Galbraith ended his conversation with Walker, Special Envoy Redman spoke to her.[167] Special Envoy Redman talked with Walker for five or ten minutes[168] about his meetings with the contact group and other matters.[169] At the conclusion of the conversation.

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[166] Galbraith Subcommittee Dep. at 37-38. Prior to this conversation with Galbraith and Redman, Walker was aware of the "no instructions" policy although she could not recollect from where. Walker Subcommittee Dep. at 2. Walker recalls conveying this guidance to Alexander Vershbow at the Department of State at some point after her discussion with Lake and receiving assurance from Vershbow that he would run it through his chain of command to ensure that Ambassador Galbraith received the correct instructions. Id. It is her belief that Vershbow told her that Galbraith had been told by the Department of State that the United States abided by the embargo and expected Croatia to do the same. Id. at 2. Vershbow, however, only recalls giving Galbraith the temporary "no instructions" policy. Special Envoy Redman also does not recall telling Walker that these were the instructions Galbraith had received from the Department of State. Redman Subcommittee Dep. at 43.

This was an extraordinarily busy and delicate time for the policy makers involved in obtaining peace within the Balkans. Literally hundreds of phone calls and hours of negotiations occurred daily. The fact that witnesses have different recollections of the timing and exact wording of a few conversations over the course of days is not significant in light of the overall circumstances in which they occurred. As stated throughout this Section, the Minority affords no special significance to the fact that witness recollections of these events do not coincide perfectly.

[167] Herrick Subcommittee Dep. at 31. Jenonne Walker does not recall the conversation being initiated by the Defense Attache on behalf of Ambassador Galbraith. It is her belief that the telephone call was initiated by Ambassador Redman. Walker Subcommittee Int. at 1. According to Walker, Redman telephoned her from Zagreb because he believed that Ambassador Galbraith had received instructions on this matter that both "surprised and troubled" him. Id. He then put Galbraith on the telephone. Id. None of the other witnesses interviewed by the Select Subcommittee recall the events of this evening in the same manner as Jenonne Walker. It is possible, due to the lapse of over two years, that the witnesses recall certain things with varying clarity. The Minority Staff does not consider this discrepancy material to the events that took place or this investigation.

[168] Herrick Subcommittee Dep. at 31.

[169] Redman Subcommittee Dep. at 44. Redman characterized his conversation with Walker as typical of his daily debriefings on negotiations that he would give her whenever

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Ambassador Galbraith and Special Envoy Redman left for the meeting with President Tudjman; the Defense Attache did not accompany the Ambassadors to the meeting.[170]

The April 29, 1994 Tudjman Meeting.

On their way to the meeting with Tudjman, Ambassador Galbraith and Special Envoy Redman discussed the delivery of the United States response to President Tudjman.[171] Both officials considered the diplomatic exchange to be of the utmost importance, and wanted to be sure they conveyed the policy correctly and in a manner that would be understood clearly by the Croatians.[172] The United States foreign policy community had expended great effort over the last seventy-two hours carefully crafting the response and it was imperative that the language not be misconstrued.

Before the dinner with Tudjman, the Ambassadors met with the President in his upstairs office at the presidential palace.[173] When Tudjman asked the question, Ambassador Galbraith replied: "I have no instructions, but pay attention to what I am not saying."[174] President Tudjman

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possible. Id. at 45. To the best of his recollection, he had no independent conversation with Walker about the Croatian question. Id. at 44-45.

[170] Herrick Subcommittee Dep. at 32.

[171] Redman Subcommittee Dep. at 47.

[172] Id. Ambassador Galbraith had expressed earlier in his conversations with the Deputy Assistant Secretary his concerns that a pure "no instructions" response might not be understood accurately by the Croatians. It was, therefore, extremely important to Ambassador Galbraith that he deliver the response as succinctly as possible. Id. at 48 (noting that "this question was from the President of a country to which [Ambassador Galbraith] was accredited, so he wanted to be responsive and he wanted to responsive in accordance with policy.").

[173] Id. at 50.

[174] Galbraith Subcommittee Dep. at 38.

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listened carefully to the response but both Ambassador Galbraith and Special Envoy Redman believed that he did not completely understand what was being conveyed.[175]

As the meeting adjourned and the three proceeded downstairs to dinner, President Tudjman pulled Redman aside[176] and asked the Special Envoy what Ambassador Galbraith's response meant and if there was something more that could be told him.[177] Special Envoy Redman responded, "It's your decision. We do not want to be put in the position of saying no."[178] President Tudjman had no outward reaction to this response nor did he raise the issue again throughout the dinner.[179] Both Ambassador Galbraith and Special Envoy Redman believed at that point that the Croatians understood that the United States would not object to the Croatian decision to transship arms to the Bosnians.[180]

The Decision to Report Orally to Washington.

After the dinner Galbraith and Redman discussed how to report to Washington on their

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[175] Redman Subcommittee Dep. at 50; Galbraith Subcommittee Dep. at 38.

[176] Id. According to Ambassador Redman, it was a Croatian tradition to conclude business and proceed downstairs for a short cocktail and dinner. Redman Subcommittee Dep. at 50.

[177] Id. at 51.

[178] Id. It is important to note that this was not the first time such a question had been posed to a United States Special Envoy. In April 1993, the United States Special Envoy was Reginald Bartholemew, the current Ambassador to Italy. During the month of April, Ambassador Bartholemew was approached by Defense Minister Susak and asked what the United States position was on Croatian facilitated arms shipments to Bosnia. See, pages 33-38, supra. Special Envoy Bartholemew responded exactly as Special Envoy Redman did nearly a year and half later: "We do not want to be put in the position of saying no."

[179] Redman Subcommittee Dep. at 51.

[180] Galbraith Subcommittee Dep. at 39; Redman Subcommittee Dep. at 51.

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encounter with Tudjman.[151] Special Envoy Redman was scheduled to depart Zagreb for Washington, D.C. the next day[152] and the two agreed that Redman could brief the appropriate officials orally at that time. Special Envoy Redman remarked that an oral response was consistent with the fact that the response had been received orally.[153] Special Envoy Redman told Ambassador Galbraith that he would contact him about sending a follow-up cable.[154]

Special Envoy Redman met with the National Security Advisor upon his return to the United States.[155] The meeting primarily concerned Redman's work with the Contact Group.[156] Redman also briefed Lake on the Tudjman meeting and informed him that he and Ambassador Galbraith expected the Croatians to proceed with the shipments as a result of the United States response.[157] The National Security Advisor nodded his understanding of this expectation.[158]

Special Envoy Redman asked Lake if he desired further reporting from Ambassador

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[151] Galbraith Subcommittee Dep. at 40.

[152] Redman Subcommittee Dep. at 52.

[153] Galbraith Subcommittee Dep. at 40; Redman Subcommittee Dep. at 40. Ambassador Redman explained that reporting orally was far more efficient given the fluid nature of events in the Balkans. There was no time to sit down and write long reports of events. Redman Subcommittee Dep. at 79.

[154] Galbraith Subcommittee Dep. at 40.

[155] Redman Subcommittee Dep. at 52. Redman "typically reported to Tony Lake whenever he came back from a mission." Id.

[156] Id.

[157] Id.

[158] Id.

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Galbraith on this matter.[189] Lake indicated that no further reporting on the matter would be necessary.[190] Special Envoy Redman telephoned Ambassador Galbraith and informed him that a reporting cable would not be necessary.[191]

There has been wide debate about why this meeting was not memorialized in some written record and whether Special Envoy Redman's oral report to officials in Washington was out of the ordinary. The Minority concludes that there was nothing incorrect in the decision to report this matter orally. It was expected that the United States response would have immediate results[192] and notification of the responsible officials in a timely manner was essential. Cable traffic, even that with restricted distribution, was distributed widely,[193] and given the Administration's desire to keep the exchange closely held, wide distribution was considered unwise. Time also was a factor to be considered when using cables to report important events; it often took several days for cables to reach the various people who needed the information. The decision to have Special Envoy Redman deliver the results orally ensured that the proper policy makers were notified promptly and thoroughly of the meeting results. The decision to report orally also was in keeping with the way this policy decision had been handled throughout the

[189] Id. at 54.

[190] Id.

[191] Redman Subcommittee Dep. at 56; Galbraith Subcommittee Dep. at 42.

[192] As discussed supra pages 130-131, Ambassador Galbraith knew that the Iranians and Croatians were scheduled to meet on this matter the very next day. If, as expected, the Croatians took the United States response to mean there would be no United States objections to the transshipments, those shipments could be arranged immediately. In fact, the first shipments of arms for the Bosnians were transshipped the following week.

[193] Galbraith Subcommittee Dep. at 40-41.

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United States government[194] and reflects no deviation from accepted diplomatic practices, particularly as they occurred with regard to the highly fluid nature of the Balkans.

Other Events of April 30, 1994.

On April 30, Croatian Prime Minister Valentic arrived in Tehran. Valentic and his delegation met with Bosnian Deputy Prime Minister Edib Bukvic, who had arrived the day before, and Iranian First Vice President Habibi.[195] According to foreign press reports, the meetings concerned "resolving the Bosnian crisis and humanitarian aid,"[196] but likely also dealt with the resumption of the arms pipeline.[197] On this same day, Vershbow recalls that he spoke again with Galbraith and reiterated that "no instructions" was indeed the United States response to the Croatians.[198]

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[194] See, e.g., Donilon Subcommittee Dep. at 19, 20 (noting that to his knowledge all debate took place orally).

[195] FBIS Report, Apr., 29, 1994.

[196] FBIS Report, Xinhua News Agency, Beijing, China. May, 1, 1994.

[197] FBIS Report, Sarajevo Radio, Sarajevo, Bosnia, May 7, 1994. [redacted]

[198] Vershbow Subcommittee Dep. at 63. Vershbow knew by this time that these instructions had been passed to Tudjman by Ambassador Galbraith and Special Envoy Redman, but it was his intention to clarify that this was not, in fact, an interim response, but the only response that the United States was to give on the matter. Vershbow may have been reiterating the "no instructions" policy as a result of a conversation with Jenonne Walker. See Walker Subcommittee Int. at 2. (Walker relayed the "no instructions" information to Sandy Vershbow who advised that he would pass it through the Department of State.)

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Events of Early May 1994: The Days Following the "No Instructions" Response.

As mentioned above, on May 2, 1994, Special Envoy Redman telephoned Ambassador Galbraith and informed him that Lake had been briefed on the April 29, 1994 Tudjman meeting.[199] Special Envoy Redman indicated that Lake saw no need for further reporting on the matter by Ambassador Galbraith.[200] At that point, neither the Special Envoy nor Ambassador Galbraith was concerned about the lack of written reporting since both were confident that the response had been delivered correctly and the meeting reported accurately to the National Security Advisor.[201] According to Special Envoy Redman, this exchange was his last involvement with regard to the "no instructions" response.[202]

By May 2, 1994, the arms pipeline had been reestablished firmly.[203] Also around this

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[199] Redman Subcommittee Dep. at 54; Galbraith Subcommittee Dep. at 42.

[200] Redman Subcommittee Dep. at 56; Galbraith Subcommittee Dep. at 42.

[201] Galbraith Subcommittee Dep. at 43; Redman Subcommittee Dep. at 56, 89. Ambassador Redman testified that he informed Anthony Lake fully on what had transpired during the meeting with President Tudjman and Ambassador Galbraith including the delivery of the "no instructions" response and Redman's further clarification to the Croatian president. Redman Subcommittee Dep. at 89. [redacted] After receiving confirmation that the Croatians had accepted the proposal to transship arms to the Bosnian Muslims, the Balkan Task Force reported [redacted] on the Iranian arms shipments to the region as well as the efforts of other countries such as Turkey and Malaysia to send arms to the Bosnian Muslims. This information was disseminated periodically in the National Intelligence Daily which is delivered to Congress, the White House, and other Executive Branch agencies. For a list of National Intelligence Daily references to the arms shipments, see Appendix E of this report. [redacted]

[202] Id. at 57.

[203] [redacted]

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time, the Defense Attache learned what had transpired at Ambassador Galbraith and Special Envoy Redman's meeting with President Tudjman from the DCM.[204] Neitzke relayed to the Defense Attache that the question had been posed to Ambassador Galbraith by President Tudjman twice in the last few days and that Ambassador Galbraith and Special Envoy Redman had responded with "no instructions."[205] The DCM also discussed the events of the preceding week with the [redacted].[206] At the conclusion of their conversation, the DCM told the [redacted] not to record the conversation and to keep their discussion to himself.[207]

The DCM wrongly assumed that because Ambassador Galbraith had been told no further reporting was necessary, policy makers in Washington did not want to be associated with the policy. The DCM took his speculation to the [redacted] who immediately disregarded the DCM's request and reported the conversation to his headquarters. It is this type of rumor mongering that contributed to the overall confusion between the [redacted] and his headquarters, the CIA and other Executive Branch agencies, and, within Embassy Zagreb, between the Ambassador and the [redacted]

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[204] Herrick Subcommittee Dep. at 32.

[205] Herrick Subcommittee Dep. at 32. LtCol. Herrick only remembered this conversation generally when he testified. Id. Although the phrases "listen to what I am not saying" and "we don't want to be in the position of saying no" were familiar to him, he attributed them to accounts he had read in newspapers of these events rather than his conversation with Neitzke at the time. Id. at 32-33.

[206] Neitzke Subcommittee Dep. at 174; [redacted] Subcommittee Dep. at 42. As noted throughout this report, much of the information contained in the [redacted] reporting cables is attributed to the DCM. The DCM, by contrast in his testimony, attributes most of his knowledge of events to the [redacted]

[207] See, [redacted] May 5, 1994; [redacted] Subcommittee Dep. at 34. Neitzke did not recall admonishing the [redacted] about making a written record of the conversation. Neitzke Subcommittee Dep. at 174. [redacted]

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Chapter Two
Section Two

COMMUNICATIONS AND MISCOMMUNICATIONS AT THE CIA

Throughout the summer and fall of 1994, a series of miscommunications, uninformed legal judgments and inaccurate reporting within the Central Intelligence Agency created confusion that rippled through the Agency. The CIA confusion had the unfortunate result of creating an atmosphere of suspicion and mistrust directed toward Ambassador Galbraith that was not justified by the facts. The confusion could have been averted by better supervision within the Agency, improved procedures for disseminating legal opinions, and higher standards for reporting.

The most significant of the miscommunications occurred prior to and in the aftermath of the May 5, 1994 meeting between James Woolsey, the Director of Central Intelligence ("DCI"), Secretary of State Warren Christopher and Deputy Secretary of State Strobe Talbott.[1] Several months later, in late September and October 1994, a second round of suspicions about the activities of Ambassador Galbraith and Assistant Secretary Holbrooke arose. Lapses in communication dating back to May and the extensive reporting of rumor and gossip along with intelligence by the [redacted] fueled these suspicions. On October 5, Director Woolsey raised the suspicions brought to his attention by CIA personnel with National Security Advisor Anthony Lake.[2] [redacted]

[1] A brief discussion of the May 5 meeting follows below.

[2] A more detailed discussion of the events surrounding the October 5 meeting can be found in Chapter Two, Section Eight.

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Disconnects at the CIA Leading Up to and Subsequent to the May 5 Meeting.

The CIA was informed fully that the Croatian Government was seeking the United States view toward Croatia allowing weapons to be transshipped en route to Bosnia. On April 29, 1994, Ambassador Galbraith sent a cable to Washington reporting on his April 28 meeting with President Tudjman. The cable recounted that the Ambassador told President Tudjman that he had "no instructions" on the issue of Croatia allowing arms to transit Croatia en route to Bosnia.[3] The CIA received a copy of this cable which was read by [redacted] the Chief of the Interagency Balkan Task Force (" the Chief/IBTF"), among others.[4] [redacted]

Ambassador Galbraith's Request to the [redacted]

Ambassador Galbraith discussed the matter with the [redacted] after receiving word from Special Envoy Redman that the delivery of the "no instructions" response had been reported to the Washington policy makers. As a general rule, the [redacted] should not be used to transmit policy.[5] In this case, however, the prior use of the [redacted] to convey

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[3] U.S. Department of State Cable, April 29, 1994. Ambassador Galbraith mistakenly understood his no instructions from the State Department to mean that the State Department had not yet formulated a response to the Tudjman question. Accordingly, Galbraith was seeking further instructions in the April 29 cable.

[4] At early stages of the inquiry, the Chief of the Balkan Task force did not confirm this. At a later stage of the inquiry, the CIA produced a memorandum for the record by Chief/IBTF which confirmed that he had received the Ambassador's cable and that he had connected it with the later cable by the [redacted] However, there is no indication that [redacted] made his superiors aware that the Ambassador had described his "no instructions" response not only to the [redacted] but directly, in writing, to [redacted] headquarters. Such information would have demonstrated that at an early stage, the Ambassador was evidently willing to keep the CIA fully informed. [redacted]

[5] In the wake of Iran-contra CIA [redacted] have been instructed that their role is one of intelligence gathering and that if any activity they undertake could influence world events, they are to seek guidance from headquarters. Woolsey HPSCI Deposition at 15; Select Subcommittee Deposition of Janet Andres, Sept. 30, 1996, at 23 (hereinafter "Andres

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policy, the good relationship between the [redacted] led the Croatians to believe that the [redacted] channel was an appropriate avenue for them to verify United States policy.[6] The Croatians also believed, because of the intimacy of the United States - Croatian [redacted] relationship, that the [redacted] would be knowledgeable about any policy change or directive.[7]

[redacted]

Subcommittee Dep.").

[6] Neitzke Subcommittee Dep. at 161. Janet Andres, who served as DCI Woolsey's executive assistant and one of the first people to brief the DCI on the Embassy Zagreb matters, explained that this is exactly the type of scenario in which an ambassador may use his [redacted] to convey a policy message. "[Y]ou do have cases where the [redacted] has special channels that are better than the Ambassador because of the traditional relationships and personalities involved." Andres Subcommittee Dep. at 24.

[7] Id.

[8] The previous week, the [redacted] had informed Ambassador Galbraith of Miro Tudjman's knowledge of the impending request for the United States position on the Croatian arms transshipments. See supra, pages 121-122 (discussing the [redacted] discussion with Ambassador Galbraith upon his return to the embassy).

[9] [redacted]

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[redacted] The miscommunication becomes even more pronounced if it affects negatively the accuracy of information coming back through the [redacted] channels to headquarters, as clearly was the case at Embassy Zagreb.[11] [redacted]

To assure that President Tudjman was not confused by the incorrect statement provided [redacted] Ambassador Galbraith asked the [redacted] to contact [redacted] and inform him that a "no instructions" response had been delivered to [redacted] by the United States on April 28 and April 29, 1994.[12] The [redacted] refused the request pending written instructions from Washington. When the ambassador explained that the instructions had been passed to him orally, the [redacted] again refused the request. After what the [redacted] characterized as a heated discussion, he reported the conversation to [redacted] headquarters and requested guidance. The [redacted] informed headquarters that unless he heard otherwise, he would assume that the United States would not impede the arms flow,[13] although he reiterated his request for clarification on this point. [redacted]

The Majority has stated that the CIA was kept in the dark about Department of State policy making. The testimony and reporting by the [redacted] is incontrovertible evidence that the [redacted] was informed fully and in a timely fashion. Unfortunately, the [redacted]

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[10] Andres Subcommittee Dep. at 25.

[11] Id. Andres explained that if the information coming through the channels is not accurate, it gives the wrong impression in "Washington" of what is occurring in the field and guidance cannot be developed accurately. Id.

[12] [redacted] May 4, 1994. [redacted]

[13] [redacted]

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chose neither to accept the truth nor to act upon it.

As demonstrated by subsequent events, the characterization of events by the [redacted] not only caused concern within the CIA, but contributed to the significant miscommunication between the Agency and the Department of State. The [redacted] repeatedly referred to a United States agreement not to impede the arms flow. This reporting strongly suggested to the CIA that Ambassador Galbraith used similar terminology in his meetings with President Tudjman. In fact, the Ambassador carefully and clearly avoided any kind of agreement with the Croatian president and certainly avoided any agreement not to impede the arms flow. The critical aspect of the "no instructions" response was its total avoidance on the part of the United States to agree to do anything.

Central Intelligence Agency Concern about Covert Activity.

On May 5, 1994, the [redacted] sent a reporting cable detailing his discussions with Ambassador Galbraith regarding the no instructions response to President Tudjman. This cable became the focal point of concern surrounding this issue among Central Intelligence Agency senior staff. Two facets of this cable caused some CIA officials to question activities occurring in Zagreb. The first and most alarming aspect was the request of the Ambassador to the [redacted] to convey a message through [redacted] channels. The overall involvement of the Iranians in the arms shipments also troubled some CIA officers given Iran's turbulent history with the United States and the CIA.[14] The Director of the CIA, however, did not have any particular

[14] See, e.g., Select Subcommittee Deposition of [redacted] Aug. 16, 1996, at 58 (noting the implications of Iranian weapons shipments) (hereinafter "[redacted] Subcommittee Dep."); Select Subcommittee Deposition of James Woolsey, Sept. 13, 1996, at 9 (explaining that the United States had a policy of containing Iran because of hostility to the United States and

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concern about the Ambassador's diplomatic exchange with the Croatian President.[15]

The primary concern of the [redacted] was the policy which he had been asked to convey to the [redacted] by the Ambassador. The [redacted] refused to accept the legitimacy of a response that might lead to increased Iranian arms shipments absent something in writing from headquarters or another executive agency.[16] Thus the [redacted] repeatedly asked for confirmation from headquarters that the United States policy was in fact what Ambassador Galbraith had told him.[redacted]

The cable troubled [redacted] the Deputy Chief of the [redacted] within [redacted] Given his request for guidance and her own alarm, [redacted] informed her supervisors in the [redacted] of the matter in one of the daily meetings the branch held to discuss problems or issues of importance.[18] The branch decided to bring the matter to the attention of the Director of Central Intelligence so that he could address what the Operations Directorate saw as a misuse of the [redacted] channel.[19] Thus, the [redacted] pursued the procedural issue of the use of the [redacted] channel while the [redacted] was trying to determine the accuracy of the

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other allies) (hereinafter "Woolsey Subcommittee Dep.").[redacted]

[15] [redacted]

[16] The [redacted] explained in his cable that he was certain once the Iranian involvement was exposed the United States would have halted the proposed shipments and he therefore was shocked by Ambassador Galbraith's assertion that this was policy.

[17] One of [redacted] responsibilities was to review the [redacted] and respond to them as necessary or requested.[redacted]

[18] [redacted] Subcommittee Dep. at 49.[redacted]

[19] [redacted]

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message he had been asked to convey to his [redacted] officer. [redacted] prepared a memorandum of talking points for the Director of Central Intelligence to use in his weekly meeting with the Secretary of State.[20] The talking points did not focus on the "no instructions" position that Ambassador Galbraith had conveyed to the Croatians, but rather the notion that the Ambassador had attempted to convey that position through the [redacted] received expedited approval of her talking points and had them delivered to the DCI shortly before his meeting with the Secretary of State. The basis for the extreme concern felt by [redacted] was her belief that Ambassador Galbraith sought to involve the [redacted] in an idea, first brought to her attention on April 20, 1994 by the [redacted] that she believed amounted to covert action. The prospect of CIA involvement in a scenario reminiscent of the Iran-contra affair was particularly troubling to her. [redacted]

The Director of Central Intelligence was briefed on the matter by the Deputy Director of Operations ("DDO") and his executive assistant sometime on May 4 or May 5, 1994.[21] Around the time he was briefed, the talking points and underlying cables that [redacted] prepared were made available to him.[22] At some point either on May 4 or the morning of May 5, 1994, as the Director learned of the issue from his Director of Operations, Doug MacEachin - the Director

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[20] [redacted] Normally, talking points for the Director's meetings with the Secretary would be prepared and placed in a briefing binder in advance of his meeting. Id. at 51. In this instance, the decision to bring the matter to the Secretary's attention occurred rapidly and [redacted] drafted her talking points quickly so that they could be included in the Director's briefing papers. [redacted] at 50. [redacted]

[21] [redacted] at 12. A notation on the talking points prepared by [redacted] indicates that the Director was "seized with" the matter as of May 5, 1994. CIA Talking Points, May 5, 1994, at 1. (TS [redacted]) [redacted]

[22] Woolsey Subcommittee Dep. at 13.

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of the Intelligence Directorate ("DDI") - also became aware of the cable traffic from the [redacted]. Either [redacted], the head of the Balkan Task Force, or John Gannon, the Director of the Office of European Affairs, orally briefed MacEachin about the Zagreb exchanges.[24] MacEachin learned that, based on the [redacted] cable, there was great concern that the ambassador had requested the [redacted] to facilitate arms shipments.[25]

MacEachin did not see the underlying cables and was given only enough information to know that the DCI intended to raise the matter with Secretary Christopher at their May 5, 1994 weekly meeting.[26] The CIA concerns were based on imprecise characterizations of the [redacted] cables and did not reflect the [redacted] actual concerns. As a result, CIA Washington and [redacted] began to work at cross purposes with regard to understanding the "no instructions" policy.

On May 5, CIA headquarters cabled the [redacted] with an interim response to his request. The cable informed the [redacted] that the DCI was seeking clarification from the NSC, and that the [redacted] should not broach the arms issue with [redacted] pending the outcome of the DCI's meeting. The interim response did not indicate what clarification the CIA was seeking; had it done so, much of the confusion that resulted later may have been

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[23] Select Subcommittee Deposition of Douglas MacEachin, Sept. 6, 1996, at 6 (hereinafter "MacEachin Subcommittee Dep.")

[24] Id. at 8.

[25] Id. The concern was among the senior staff who had reviewed the cables and talked with [redacted].

[26] Id. Normally, Admiral Studeman, the Deputy Director of Central Intelligence, would attend these meetings but he was out of town. MacEachin's primary purpose at this meeting was to serve as a note taker so he was briefed with enough information to take adequate notes at the meeting. Id.

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avoided. (S)

The May 5, 1994 Meeting between DCI Woolsey and Secretary Christopher: Clarification Is Sought.

On May 5, 1994, DCI Woolsey had his regularly scheduled meeting at the Department of State with Secretary Warren Christopher.[27] The DCI informed the Secretary and other Department personnel that the [redacted] had been asked to inform his [redacted] that the United States would in effect look the other way to Iranian arms shipments to the Bosnian Muslims.[28] The DCI also informed the Secretary that he had phoned Anthony Lake and brought this matter to Lake's attention.[29] Deputy Secretary Talbott acknowledged that he had received a telephone call from Sandy Berger, Lake's deputy, informing him of the conversation with Lake and the DCI's concerns.[30] To the DCI and his subordinates, the fact that the [redacted] thought he had been requested to take direct action to facilitate the arms flow was the core issue to be resolved.[31] Deputy Secretary Talbott, however, focused on the substantive message that was being communicated and not the means of the communication. Talbott worried, based on

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[27] Also present at the meeting was MacEachin, Deputy Secretary Strobe Talbott, and Deputy Assistant Secretary for Intelligence and Research, Philip Wilcox. Id. at 5; Select Subcommittee Interview of Philip Wilcox, Aug. 14, 1996, at 1 (hereinafter "Wilcox Subcommittee Int.").

[28] MacEachin Subcommittee Dep. at 13; Memorandum for the Record, May 5, 1994 (D. MacEachin, drafter).

[29] Id. at 15. As the CIA worked on a response to the [redacted] request for guidance, an interim cable was sent informing him that the matter had been taken to the Director and a recommendation made that he discuss the issue with Anthony Lake. [redacted] May 5, 1994 (TS). It is likely that this telephone call occurred as a result of that recommendation. (S)

[30] Id.

[31] MacEachin Subcommittee Dep. at 14.

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the DCI's recount of what the [redacted] had reported, that instead of "no instructions" Ambassador Galbraith had responded in some other way. Talbott therefore told the DCI that Ambassador Galbraith instructed on several occasions, and at least once "tartly," that he was to respond that he had "no instructions" to any Croat query on the subject.[32] Talbott told the DCI that he would call Ambassador Galbraith and reconfirm his instructions.[33] Following this exchange, the DCI and Secretary Christopher moved on to other agenda items.[34] [redacted]

May 5, 1994 in Zagreb.

After a meeting with General Joulwan, the Commander of United States forces in Europe,[35] the Ambassador requested a ride to the embassy from the Defense Attache so that he could use a secure telephone.[36] Before arriving at the embassy, the two stopped at the DCM's home and discussed the issue of arms transshipments to the Bosnians.[37] Ambassador Galbraith and Neitzke discussed "cryptically" the "no instructions" response that had been given to

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[32] Id. at 17.

[33] Id. at 19.

[34] MacEachin Subcommittee Dep. at 18.

[35] General Joulwan was responsible for the military operations within Europe while General Keeler, also at European Command ("EUCOM") was responsible for the diplomatic exchanges among the military in the region. Senate Select Committee on Intelligence Deposition of General Wesley Clark, June 24, 1996, at 27 (hereinafter "Clark SSCI Dep."). The meeting was to discuss Croatian intelligence information that the Defense Attache had received which indicated that the Serbs were planning an attack on Bosnian territory leading to the Brcko corridor. Herrick Subcommittee Dep. at 34.

[36] At this time, the residence had not been equipped with a secure telephone. [redacted] Subcommittee Dep. at 126. [redacted]

[37] Herrick Subcommittee Dep. at 35.

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President Tudjman.[38] The Ambassador and the Defense Attache left Neitzke's residence for the embassy. The Defense Attache took the Ambassador to his office to use the secure telephone there while he worked on administrative matters.[39]

On May 6, 1994,[40] Vershbow telephoned Ambassador Galbraith to determine if there was any question about the "no instructions" response.[41] Vershbow wanted to ensure that Ambassador Galbraith understood that the "no instructions" response was not to be embellished in any way.[42] Ambassador Galbraith recounted his delivery of the message to, and Special Envoy Redman's brief exchange with, President Tudjman. At the conclusion of this retelling, Vershbow pronounced himself completely satisfied with the Ambassador's handling of the matter,[43] and commented that Ambassador Galbraith and Special Envoy Redman had positioned

[38] Id. Herrick testified that the discussion was cryptic because it was believed that Neitzke's residence was unsecure. Id.

[39] Id. at 35.

[40] Galbraith Memorandum for the File, May 6, 1994, at 1. Ambassador Galbraith testified that this conversation occurred on May 5, 1994 rather than May 6, 1994. Given the contemporaneous nature of the memorandum, the Minority believes the call came on May 6.

[41] Vershbow Subcommittee Dep. at 96. According to Ambassador Galbraith's recollection, this call occurred prior to his discussions with Talbott. Galbraith Subcommittee Dep. at 44. Vershbow does not recall Talbott directing him to make the call and was uncertain whether it occurred prior to or after Talbott had spoken to Galbraith personally. Vershbow Subcommittee Dep. at 96-97.

[42] Id. at 95. Galbraith recalls the conversation as more pointed. Galbraith believes that Vershbow telephoned initially "to rap his knuckles" and to question whether he had succinctly delivered the no instructions response the way it was intended by policy makers in Washington. Galbraith Subcommittee Dep. at 43-44. Vershbow has no recollection of being asked to reprimand Ambassador Galbraith for his delivery of the no instructions response. Id. at 99.

[43] Vershbow Subcommittee Dep. at 96; Galbraith Subcommittee Dep. at 44.

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the United States exactly where it should be.[44]

Prior to this conversation with Vershbow, Ambassador Galbraith did not realize that there was confusion in Washington concerning his "no instructions" delivery. He learned from Vershbow, however, that the DCI had raised the issue with Talbott and that had precipitated Vershbow's inquiry.[45] When his conversations with Vershbow ended, Galbraith attempted to reach Strobe Talbott but was unable to do so.

Deputy Secretary Talbott Contacts Ambassador Galbraith to Reiterate the "No Instructions" Response.

On May 6, 1994, Strobe Talbott telephoned Ambassador Galbraith.[46] Talbott explained that his call was premised on the previous day's meeting between the Secretary and the DCI.[47] The concern expressed by the DCI that the Ambassador may have exceeded his guidance prompted Talbott to seek reassurance that the policy had been conveyed effectively.[48] Talbott believed it important that the Croatians not be left with the perception that the United States had given them a green or amber light on this initiative to supply arms to the Bosnians.[49] Talbott recognized that the United States was in the delicate position of balancing the need to promote the Federation on one side and protect the allegiance among the United States allies enforcing the

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[44] Galbraith Memorandum to the File, May 6, 1994, at 1.

[45] Galbraith Subcommittee Dep. at 45, 130.

[46] Select Subcommittee Deposition of Strobe Talbott, Sept. 5, 1996, at 14 (hereinafter "Talbott Select Subcommittee Dep.").

[47] Id. at 16.

[48] Talbott Subcommittee Dep. at 16-17.

[49] Galbraith Subcommittee Dep. at 47.

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arms embargo on the other.[50] If the allies perceived a United States green light, relations would become complicated.[51] In addition to the complications that a disclosure of a confidential diplomatic exchange would cause, the fact that it involved the Iranians could have promoted further controversy.[52]

After talking to Ambassador Galbraith, however, Talbott was satisfied that the policy had been conveyed correctly and that Ambassador Galbraith understood there was to be no expansion of the pure "no instructions" guidance.[53] Ambassador Galbraith concluded the conversation by asking Deputy Secretary Talbott whether or not a reporting cable should be prepared on the meeting.[54] Talbott informed Ambassador Galbraith that he should wait to hear from either Sandy Vershbow or Assistant Secretary of State for European Affairs Steve Oxman.[55] At the conclusion of this conversation, Ambassador Galbraith was confident that the record had been set straight.[56]

Following his conversation with Ambassador Galbraith, Deputy Secretary Talbott contacted Deputy Assistant Secretary Vershbow.[57] Talbott relayed to Vershbow what he and

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[50] Id. at 21. See also Galbraith Memorandum to the File, May 6, 1994 (discussing Talbott's concerns about the implications of a perceived green light).

[51] Talbott Subcommittee Dep. at 21.

[52] Id. at 22.

[53] Talbott Subcommittee Dep. at 18.

[54] Galbraith Subcommittee Dep. at 50

[55] Id. at 50; Galbraith Memorandum to the File, May 6, 1994.

[56] Galbraith Subcommittee Dep. at 52.

[57] Vershbow Subcommittee Dep. at 73.

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Ambassador Galbraith had discussed earlier that day. Talbott expressed some concern that the "no instructions" response had somehow gone "off track" when it was explained to Ambassador Galbraith by the National Security Council on April 29.[58] Talbott further explained that Special Envoy Redman had been involved in clarifying the "no instructions" response and that Ambassador Galbraith had shared with President Tudjman at an earlier meeting that "Washington hadn't made up its mind yet" on what response to pursue.[59] In this regard, Talbott expressed concern that Ambassador Galbraith and Special Envoy Redman had exceeded the pure "no instructions" delivery.[60] Vershbow and Talbott agreed that it would be best, however, to let the situation stand[61] given that the essential meaning of "no instructions" had been conveyed correctly by the Ambassadors.[62]

Deputy Secretary Talbott then discussed the issue of a written record of the events with Vershbow. He reiterated Ambassador Galbraith's request that the delivery of the response and surrounding events be memorialized.[63] Talbott offered the view that if such a record were made,

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[58] Id. According to Vershbow's contemporaneous notes, Jenonne Walker gave Ambassador Galbraith the "no instructions" response "exactly [as the] Secretary thought [they should be]" but that Tony Lake had requested the response be delivered with raised eyebrows and a smile. Id. Because of the NSC interpretation of the "no instructions" response, Ambassador Galbraith had focused President Tudjman's attention on "what he didn't say." Id.

[59] Vershbow Subcommittee Dep. at 78-79.

[60] Id.

[61] Vershbow Subcommittee Dep. at 80.

[62] Senate Select Committee on Intelligence Hearing on U.S. Actions Regarding Iranian Arms Shipments to Bosnia, May 23, 1996, at 53-55 (hereinafter "Talbott SSCI Hearing").

[63] Vershbow Subcommittee Dep. at 80.

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there should be only one copy in light of the matter's sensitivity."[64] Vershbow concurred in this assessment. Events overtook this discussion, however, and no official written record of the exchange was created.[65] Although no contemporaneous written record was prepared, the testimony of the participants strongly indicates that a written record was not ruled out. The testimony also indicates that Deputy Secretary Talbott objected to a reporting cable only because of the inability to control distribution in an effective way.

Ambassador Galbraith Memorializes the Croatian Inquiry.

After Ambassador Galbraith's discussion with Deputy Secretary Talbott, the Ambassador discussed the affair with the DCM. He had not heard from Vershbow or Oxman as Deputy Secretary Talbott had indicated he would.[66] Although it was relatively common in the context of Balkan diplomatic activities not to have a written record of events, the Ambassador felt that a record of what he believed to be a very significant event should be retained.[67]

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[64] Id. at 80-81. Vershbow opined that the concern about a written record stemmed from the potential allied reaction to the "no instructions" response. As discussed in Chapter One, Section Two, the allies maintained the arms embargo in theory as a way to protect their troops, even though throughout the course of the arms shipments they too turned a blind eye. Id. at 81. The delicate positions of the United States and the allies as a result of this approach to the embargo required a "low profile" according to Vershbow and Talbott to protect everyone's interests.

[65] On May 6 or 7, 1994, Strobe Talbott had a conversation with Samuel Berger, the Deputy National Security Advisor. According to notes made by Vershbow of the conversation as it was related to him by Talbott, Berger believed that a written record of events would be "dynamite." However, the prevailing view still was that if a written record was made, there should only be one copy. Vershbow Subcommittee Dep. at 93, 95. Talbott also made reference to Jenonne Walker being "disciplined" because of her role in the conveyance of the no instructions. Id. Walker has no recollection of having ever been disciplined because of her role in this matter. Walker Subcommittee Int. at 2.

[66] Galbraith Subcommittee Dep. at 50.

[67] Id. at 51.

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At the DCM's suggestion, the Ambassador wrote a memorandum to the record. The Ambassador was wary of the confusion in Washington over his delivery of the "no instructions" response and felt that it might be in his best interest to create a written memorandum describing the precise recitation of the response.[68] Moreover, such a written record was not inconsistent with the direction of the Department which only precluded a cable report. Ambassador Galbraith recounted the events surrounding his conveyance of the "no instructions" response to President Tudjman on April 28 and April 29, 1994, as well as the subsequent conversations he had with policy makers in Washington during the first week of May. Ambassador Galbraith noted that Vershbow believed the situation was exactly where people in Washington wanted it to be and that Talbott concurred that the response was conveyed accurately.

The memorandum was signed and dated by the Ambassador and witnessed by the DCM. On the following day, as was his consistent pattern, the DCM told the [redacted] about the Ambassador's business, in this case the content of discussions as he knew them and the content of Ambassador Galbraith's memorandum to the file.[69] The [redacted] concurred with the

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[68] Id. at 52. Ambassador Galbraith attributes the confusion and concern in Washington to the information reported to the CIA by the [redacted] and the CIA's subsequent interpretation of that information. Id. at 51, 56.

[69] Contrary to the allegations that Vershbow had disagreed with Ambassador Galbraith's delivery of the "no instructions" response, Vershbow testified that he came away from his discussions with the Ambassador feeling "satisfied that he [and Special Envoy Redman had] left it in the right place." Vershbow Subcommittee Dep. at 115.

[70] This conversation with the DCM was memorialized by the [redacted] in a lengthy cable to headquarters, [redacted] May, 7, 1994. During his Subcommittee deposition, Neitzke was unable to recall this particular conversation with the [redacted] in any detail. Neitzke Subcommittee Dep. at 184.

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Ambassador's decision to create the memorandum.[71] In their conversation, the DCM speculated that he thought policy makers in Washington were abandoning the Ambassador and the "no instructions" response. And, as was his consistent pattern, the [redacted] reported the speculations by the DCM. The [redacted] also attributed to the DCM the remark that "Washington never intended Croatia to allow Iran to bring in so many deliveries so quickly." By May 7, 1994, however, only one shipment had been delivered[72] by the Iranians and the regular flight of small arms from a variety of sources had yet to begin. [redacted]

Throughout the month of May, the [redacted] and the DCM continued to speculate and comment upon the actions of the Ambassador, and the [redacted] continued to report those discussions to his headquarters as if they were matters of intelligence fact-finding. The [redacted] also continued to request clear guidance from his headquarters, which did not materialize until November 1994 when the DCI finally visited the region. At the same time the DCI cautioned the [redacted] about reporting on their colleagues within the embassy. This message apparently was directed toward the [redacted] at Embassy Zagreb. DCI Woolsey's Special Assistant, Janet Andres, admonished the [redacted] for the rumor and conjecture contained in his cables.[73] She explained to the [redacted] that such

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[71] CIA headquarters had cabled the [redacted] to inform him of the DCI's meeting with Talbott and Christopher and his discussions with Lake so he was aware that discussions had occurred in Washington. Unfortunately, the advice the [redacted] received was based on his convoluted reporting and the inaccurate interpretation at headquarters of that reporting. As a result, the [redacted] was told, per these discussions, there was no change in United States policy re: the arms embargo. [redacted]

[72] Neitzke Subcommittee Dep. at 183.

[73] Memorandum to the File by the [redacted] Nov. 17, 1994. This is not the first time that the [redacted] had been admonished about his reports. In at least three cables

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reports become part of the written record of events and if presented to Congress or another investigative body, would reflect an inaccurate picture of what was occurring at the Embassy.[74] As subsequent events demonstrate, this is exactly what happened.

A Pattern of Disconnects at the CIA.

There were at least six major disconnects related to the delivery of the "no instructions" response either within the CIA or between it and other Executive Branch agencies. These miscommunications bred mistrust, suspicion, and false accusation against United States officials including the Ambassador.

Disconnects Between CIA Washington and the

The first major disconnect was between CIA headquarters and the Both the May 5 Talking Points for the DCI and the oral briefings of the DCI and the DDI focused solely on one issue: the propriety and appropriateness of the request by Ambassador Galbraith to the to inform that the United States had "no position" on the enforcement of the arms embargo. Neither the May 5 talking points nor the oral briefings specify that the Ambassador already had conveyed the "no instructions" response to President Tudjman's query about the United States reaction to the transshipment of arms through Croatia. The May 5 talking points also give no hint that the Ambassador had told the of the "no instructions" response to

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beginning in the first week of May the was told to refrain from editorializing and commenting upon the actions of others at Embassy Zagreb. Nevertheless, the continued to report the conjecture and assumptions presented to him by the DCM and the officer without any substantive corroborating evidence.

[74]

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President Tudjman, nor do they mention the fact that in the face of the [redacted] refusal to convey a message to [redacted] the Ambassador asked the [redacted] to have [redacted] approach the Ambassador on the issue. [redacted]

Ultimately, the failure to resolve these disconnects contributed significantly to the [redacted] suspicions about the Ambassador and, subsequently, about Assistant Secretary Holbrooke. Based upon advice from [redacted] believed that the "no instructions" response was a covert action.[75] The DCI, in contrast, was concerned only that the use of the [redacted] not be used to convey policy. Moreover, the Director was not made aware of the fact that the [redacted] had used the [redacted] fifteen days earlier to impart an inaccurate version of United States policy with respect to enforcement of the arms embargo. [redacted]

In fact, CIA headquarters had no interest in the response conveyed by the United States Ambassador. As [redacted] testified: "had the Ambassador not asked the [redacted] to communicate policy to the Government of Croatia, "we probably wouldn't have been managing the Ambassador's activities at all."[76] In other words, she noted, "my principal responsibility was making sure that CIA personnel acted appropriately," not the Ambassador's activities.[77] [redacted]

Moreover, the May 5 talking points failed to convey the nuances of what the Ambassador, acting on careful guidance from Washington, was doing by his "no instructions"

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[75] See subheading "Disconnects Relating to the Law of Covert Action" in this same Section.

[76] [redacted] Subcommittee Dep. at 77-78. [redacted]

[redacted]

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response. [redacted] for example, was not interested in the nuances of the "no instructions" response: "I'd like to leave this area of questioning to the diplomats, as I'm not a diplomat, and I have not had diplomatic training. I'd like these subtleties to be explained by people who understand them better. . . . It's like asking somebody who is not a dentist to fill a tooth."[redacted]

Similarly, it appears that the oral briefings of the DCI and DDI omitted completely the actual response the Ambassador provided to the Croatian president on April 28 and 29. The DCI was not informed of the response by Ambassador Galbraith: "It wasn't our business to oversee Galbraith's communications with the Croatian Government unless he was involved in conducting a covert action of some sort, and this didn't come up or wasn't really on the screen, I think, on May 5. We were concentrating on what he had asked the [redacted]

Had the "no instructions" response been discussed with the DCI, he could have assuaged the concerns of the CIA personnel who were raising legal questions about the Ambassador's actions. As the DCI himself explained:

> In my judgment, very much because of President Bush's veto of the 1991 authorization bill for intelligence and the back and forth with Congress that occurred in the context of that veto, traditional diplomatic communications, including even the suggestion of a covert action by a United States diplomat to another country is -- does not itself constitute covert action. And certainly standing mute, even standing mute in such a way as to say you have "no instructions," and to wink or nod or anything like that, for a diplomat, for a State Department ambassador, in my judgment did not then and does not now constitute

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[redacted] Subcommittee Dep. at 82. As events unfolded, the failure by [redacted] to be as circumspect about questions of law as she was about questions of diplomacy and dentistry created special problems for the [redacted]

Woolsey Subcommittee Dep. at 16.

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covert action."[90]

For almost six months, the [redacted] was left in a state of ignorance. Thus, the belief held by the [redacted] from May through November 15 that the United States Ambassador to Croatia was engaged in a covert activity was, in the words of the DCI, wrongly held. [redacted]

Disconnect Between the Director of Central Intelligence and the Deputy Secretary of State.

The second major disconnect was between the DCI and the Deputy Secretary of State. The DCI had taken up the matter of the use of the [redacted] in a telephone call with National Security Adviser Lake, and in person at the May 5 meeting with Secretary of State Christopher and Deputy Secretary of State Talbott. When the DCI was informed at the May 5 meeting that the Ambassador had conveyed a "no instructions" response to President Tudjman on April 28 and 29, Director Woolsey had no concern whatsoever about the legality of Ambassador Galbraith's actions. [redacted]

To the DCI and his subordinates, the fact that the [redacted] thought he had been requested to take direct action to facilitate the arms flow was the core issue to be resolved.[91] Deputy Secretary Talbott, however, focused on the substantive message that was being communicated and not the means of the communication. Based on the DCI's account of the [redacted] report, Deputy Secretary Talbott was concerned that instead of "no

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[90] Id. at 21.

[91] Select Subcommittee Deposition of Douglas MacEachin, Sept. 9, 1996, at 13 (hereinafter "MacEachin Subcommittee Dep."); Memorandum for the Record, May 5, 1994 (D. MacEachin, drafter).

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instructions." Ambassador Galbraith had responded in some other way that was inconsistent with his directions from Washington. Deputy Secretary Talbott's comments to the DCI about Ambassador Galbraith being told "tartly" that he was not to go beyond the "no instructions" response, were based on his misimpression (gleaned from his conversation with the DCI) that Ambassador Galbraith had not executed his instructions properly. Deputy Secretary Talbott told the DCI that he would call Ambassador Galbraith and reconfirm his instructions.[82] He did so and was reassured that Ambassador Galbraith had indeed conveyed the "no instructions" message as directed. [redacted]

The DCI, a former diplomat, was aware of the range of diplomatically expressive possibilities surrounding such a response. The DCI testified that such a response "can be heard and communicated different ways and can arise in different circumstances inside the U.S. Government. . ."[83] He elaborated:

> [I]f they wanted, either the White House or the State Department wanted to have a new policy, but to have the Ambassador communicate that policy very subtly by saying, 'I have no instructions,' wink-wink, nod-nod, that is certainly a reasonable thing to do in diplomacy. . . .
>
> [I]n the abstract, there may be some diplomatic reasons one wants to do things that way, and there's no -- no law against it as far as I know.[84]

Disconnect Between the Director of Central Intelligence and his Subordinates.

The third major disconnect was between the DCI and his subordinates. The DCI did not

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[82] Id. at 19.

[83] Woolsey Subcommittee Dep. at 23.

[84] Woolsey Subcommittee Dep. at 42.

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share the same levels of concern as did some of his subordinates about the ambassador asking the [redacted] to convey a message through [redacted] The DCI was not at all critical of the Ambassador for having asked [redacted] for help.

> I have said before, and I believe this is the case, I don't think it was improper for [the Ambassador] to ask the [redacted] what he asked him. But I do believe it was quite proper for the [redacted] to turn him down. And had personal relations between the two been highly cordial, that conversation might have gone very simply of his saying to the [redacted] "Can you give me a hand. . . .
>
> * * * *
>
> And [upon refusal] the Ambassador could conceivably have said, "Oh, I hadn't really thought of that. That is really fine. Don't worry about it.
>
> That would have been the end of it. There is nothing wrong with ambassadors and [redacted] trying to get things sorted out and talking to one another. But if that had happened, this all may never have come up.[65]

[redacted] however, was extremely alarmed by the request. The DCI's lack of concern was not communicated to those who had briefed the DCI in preparation for the May 5 meeting, to [redacted] who prepared the May 5 talking points) or to the [redacted] therefore, continued to ascribe nefarious motives to the Ambassador, which nourished the suspicions of the [redacted]

Disconnects at the CIA in the Aftermath of the May 5 Meeting .

The next significant communication gap occurred after the May 5 meeting. The [redacted] came to attach great significance to one particular sentence in a cable he received describing the May 5 meeting -- yet that particular sentence was one that had not even come up in the meeting.

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[65] Id. at 40.

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On May 6, 1994, [redacted] headquarters cabled the [redacted] regarding the DCI's meeting with Deputy Secretary Talbott.[96] The DCI delegated the task of preparing the follow-up memorialization of the meeting to the DDI. Unfortunately, the DDI did not author the cable. The cable was prepared by staff of the Operations Directorate (the "DO"), who had not been represented at the May 5 meeting.[97] The DO staff cable drew upon the DDI's memorialization of the meeting, but improvised an addition at the end that had neither been discussed at the May 5 meeting nor included in the DDI's memorialization. This improvised addition was the prospective announcement that if any change in policy occurred, the recipients of the cable would be kept informed. [redacted]

Policy was not discussed at the May 5 meeting. Of course, there was no reason to do so since the policy makers were clear on the policy, and the DCI had not raised the issue - or indicated in any way that he had a concern about policy. The DCI did not express either in the meeting or afterwards any intention of keeping anyone informed of anything, and the DCI had not even read, let alone cleared, the outgoing cable. Accordingly, the DCI was not aware that the [redacted] was anticipating that he would be informed by [redacted] Headquarters of the Administration's policy regarding enforcement of the arms embargo. According to Director Woolsey: [redacted]

> As it became clearer, later in May and into June, that the U.S. Government was essentially acquiescing in the shipments through, there wasn't any particular problem at that point that I knew of that I had to solve with respect to the [redacted] So basically I don't think I thought about the [redacted] that much late in May, early in

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[96] MacEachin Subcommittee Dep. at 78.

[97] Id. at 76-77.

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June. "[redacted]

The [redacted] however, was consumed with worry about policy. [redacted] headquarters led him to believe that the United States policy was to enforce the arms embargo against third parties. Ambassador Galbraith told him the United States policy was to neither to object nor to support the shipments of arms to Bosnia by third parties. The [redacted] believed [redacted] headquarters. He therefore concluded that at the very least, the Ambassador was not being truthful and perhaps, the Ambassador was acting illegally. The [redacted] report is notable both for expressing his suspicions and for seeking fulfillment of the promise made in the May [redacted] able that he would be kept informed of policy changes. The [redacted] testified that: "what was conveyed to me was that . . . they would inform me when there was a policy change. . . .[T]he definitive line was the bottom paragraph, which was there was no change in policy. We will inform you when there is. That was that."[84] [redacted]

Disconnects Relating to the Law of Covert Action.

A fifth miscommunication occurred regarding the legal interpretation of the Ambassador's activities. [redacted] was not a lawyer, but she rendered a legal opinion to the [redacted] that assistance from third countries to Bosnia through Croatia would constitute a covert action. This incorrect legal advice ultimately led the [redacted] to conclude that the "no instructions" response suggested a covert action was underway. [redacted]

In depositions [redacted] admitted, "[h]aving refreshed my recollection, I can say

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[84] Woolsey Subcommittee Dep.

[85] Select Subcommittee Deposition of [redacted] Aug. 9, 1996. at 41 (hereinafter [redacted] Subcommittee Dep."). [redacted]

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that there is no evidence on this cable that I consulted with a legal officer."[90] She did not consult with anyone from the CIA General Counsel's office about legal matters. As previously quoted, the DCI, upon receiving an opinion from the General Counsel's office regarding President Bush's veto of the 1991 Intelligence Authorization Act, fully understood that delivery of the "no instructions" response to the Government of Croatia was not a covert action. In fact, the DCI testified that he "was certainly not under the impression in early May that silence on part of an American diplomat, however, whatever body language was put with that silence, or saying 'I have no instructions,' would constitute covert action, even though I hadn't at that point focused on the '91 veto."[91]

Unfortunately, the [redacted] was left to believe [redacted] analysis that a covert action had, at the very least, been considered. If she had not rendered legal advice, or if the advice had been corrected, the [redacted] might have refrained from reporting conversations and incidents that he believed were suspicious. After receiving a report about the May 5 meeting, the [redacted] "saw that Iranian arms were flowing, so that told me something had happened. Of course, I knew something had happened. The question was whether. . . .it was a potential illegality, based on previous guidance."[92] The "previous guidance" to which the [redacted] referred was the inaccurate legal guidance provided in [redacted] cables.

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[90] [redacted] Subcommittee Dep. at 40.

[91] Woolsey Subcommittee Dep. at 21.

[92] [redacted] Subcommittee at 42.

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Leaving the [redacted] in the Dark.

The CIA missed another opportunity to inform the [redacted] about the status of United States policy on the arms embargo after a May 20, 1994 meeting at which the DCI learned that United States policy was not to enforce the arms embargo against Bosnia.

> There was a meeting sometime in May, I believe. . . . Apparently there was a meeting in which the principals discussed in some fashion whether to press the Croatians to stop deliveries from Iran, and that discussion would seem to suggest that we were not at that time pressing the Croatians to stop deliveries.
>
> So probably . . . that could well have been one of the factors that led me, indeed all of us at the Agency, to believe that the policy of the embargo against Iran was not at that time being pressed or really enforced by the United States.[93]

Unfortunately, not "all" of the individuals at the CIA knew this to be the United States policy. The [redacted] was not informed for six more months. [redacted]

Thus, the [redacted] suspicions in the aftermath of May 5 appear to have resulted from his multiple handicaps and confusions. He had been misled about the law by his immediate superior at headquarters. Neither the fact, nor the nuances, of the Ambassador's "no instructions" response had been communicated to the DCI for clarification with the State Department. Most important, the guidance cabled back led the [redacted] to anticipate getting further information on something which the DCI did not intend to provide. [redacted]

Summer 1994 at the CIA.

The [redacted] continued to harbor unfounded suspicions about

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[93] Woolsey Subcommittee Dep. at 26-27; An NSC list of documents briefed to Subcommittee staff lists a May 20 principals meeting. (This list was prepared for the Select Subcommittee by members of the NSC.) In all likelihood, a representative from the Department of Defense as well as of the CIA was at that meeting.

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the Ambassador's actions on the basis of these communications disconnects. In Washington, during that summer of 1994, discussion of Bosnia policy shifted to Capitol Hill, where the Congress debated and subsequently adopted legislation regarding the arms embargo."[94] As the DCI testified: "The events of early May were, for all practical purposes, I think, overtaken by the passage of Nunn-Mitchell."[95] The Deputy branch chief also understood that "Nunn-Mitchell prohibited, as far as I understand it, enforcement of the arms embargo against the Bosnians," including weapons from Iran.[96]

The degree to which the [redacted] was either misinformed or not informed about the facts, the policy and the law undoubtedly contributed to the quality of his reporting. As discussed elsewhere, the lack of guidance provided to him and the tendency of both the [redacted] and the Deputy Chief of Mission to rely upon rumor and gossip in addition to intelligence was an unfortunate combination. Clearly, CIA headquarters must devote more attention to the dissemination of legal advice and to the need to respond to requests for guidance from the field. The reporting from Zagreb came up through CIA headquarters to the DCI's Executive Assistant, who explained: "I thought there were grave questions about whether he was an accurate reporter of what was actually going on. . . . He [redacted] was not one of the old hands, put it that way. The smaller stations, they tended to be younger officers with less experience."[97] The DCI's Executive Assistant further explained: [redacted]

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[94] See the separate section on Congressional action: Chapter One, Section Three.

[95] Woolsey Subcommittee Dep. at 71.

[96] [redacted] Subcommittee Dep. at 71. [redacted]

[97] Andres Subcommittee Dep. at 25.

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one of my concerns. . . .[about i]nformation coming back through traffic from the [redacted] back to Washington [was] that it may not accurately reflect what really was going on so [it] was creating the wrong impression about what was going on and because -- again, I did not know the [redacted] personally, but just the tone of some of the communications suggested to me that he might not be, have the best judgment and be the most solid person. So that was certainly a concern.[99]

[99] Id.

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Chapter Two
Section Three

THE DEPARTMENT OF DEFENSE AND THE APRIL 1994 RESPONSE

The Department of Defense generally, and the defense attaches in Embassy Zagreb particularly, dealt with delivery of the "no instructions" response in a far more restrained way. In so doing, they avoided the confusion and misinformation which marked the Central Intelligence Agency handling of the matter. In large part, this was due to strict adherence to reporting only intelligence and not rumor and gossip; to accepting the fact that policy making is the bailiwick of the other Federal agencies; to a general understanding of the law; and perhaps most important to a willingness to accept the word of colleagues over those of foreign officials and intelligence contacts.

Although Department of Defense personnel did not participate in the formation of the "no instructions" response to the Croatians,[1] the Department did receive information regarding the events leading up to and following Ambassador Galbraith's conveyance of the response to President Tudjman on April 28 and April 29, 1994. Whereas the [redacted] refused to acknowledge delivery of the response or accept its consequences, the Defense Attache continued to perform his duties and avoided reporting on embassy personnel and speculating about their motives.

Neither the Defense Attache nor his superiors at the Department of Defense sought to thwart the consequences of that response, or believed that the role in delivering the response by

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[1] Select Subcommittee Deposition of Peter Tarnoff, Sept. 13, 1996, at 53 (hereinafter "Tarnoff Subcommittee Dep.").

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Ambassador Galbraith or any other United States official suggested a covert action without the requisite findings. In fact, when presented with allegations of possible United States covert activity, Department of Defense personnel repeatedly denied such allegations and reported as such through their respective channels.[2]

Information Available to the Department of Defense.

The Department of Defense was privy to the same intelligence that was available to the other executive branch agencies during the Spring of 1994. Cable traffic [redacted] and intelligence reports were created by or provided to the Department of Defense on a routine basis.[3] To deal with the constantly changing situation in the Balkans, the Department of Defense created the Bosnian Task Force within the Secretary's office. The Defense Department would receive

[2] Accusations of possible United States covert activity arose in a variety of circumstances. The Defense Attache in Paris routinely heard allegations that the United States was conducting all types of covert activities. General Rose, the British commander of UNPROFOR also heard such rumours which he passed on to his American [redacted] liaison. The Defense Attache in Zagreb also received intelligence reports of alleged United States activity. There were also repeated sightings of "American military personnel" training the Bosnian Muslims which turned out to be American mercenaries unassociated in any way with the United States government or military personnel stationed in the region. In each of these cases, Department of Defense personnel denied the rumours and requested specific evidence to corroborate the claims; none was ever forthcoming. [redacted]

[3] In addition to cable traffic provided by the defense attaches and military commands around the world, the Defense Department received intelligence from such sources as the Department of State (Secretary's Morning Summaries), the Central Intelligence Agency (National Intelligence Daily, Balkan Task Force and NESA reports), and the National Security Council (through Principal's Meetings and NSC summaries). The Department of Defense also provided its own intelligence assessments such as the Defense Intelligence Report and briefings to other Executive Branch agencies.

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information directly from the region from U.S. Special Envoy Charles Redman who made it a point to contact the Department of Defense about matters whenever possible.[4] (S)

In light of the available information, the Department of Defense was fully capable of assessing the situation in the region and evaluating a potential threat to United States troops serving there.[5] The Department used this information to formulate its policies with regard to UNPROFOR, participation in Operations Deny Flight and Sharp Guard, and the coordination of humanitarian aid air drops. The Department of Defense also used this vast array of information to prepare the further deployment of United States troops to the area in the event peace should be established in the region or in the event that UNPROFOR should be forced to withdraw.

The general availability of information about the region allowed Department of Defense personnel to keep fully informed about attempts by third countries to circumvent the arms embargo and supply the Bosnian Muslims. The Department of Defense, through a variety of intelligence sources, also knew that the Iranians were eager to aid the Bosnian Muslims in order to increase their stature within the Islamic community and within Bosnia.

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[4] Select Subcommittee Deposition of Charles Redman, Aug. 27, 1996, at 6 (hereinafter "Redman Subcommittee Dep."). Ambassador Redman would speak generally with Deputy Assistant Secretary Joe Kruzel or Under Secretary Walt Slocombe. Id. Contact with these gentleman would ensure that the Secretary and the Chairman of the Joint Chiefs of Staff would be apprised of any new developments.

[5] Prior to the deployment of IFOR, the United States had approximately 300 service personnel serving in various capacities in Croatia.

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The Department of Defense Learns of the April Inquiries.

The Defense Attache at Embassy Zagreb was one of the first United States officials to be contacted by the Croatians regarding the reestablishment of the formal pipeline.[6] The Defense Attache reported in a cable dated April 25, 1994, an April 18, 1994 conversation he had with Defense Minister Susak. The Defense Attache reported in detail what Defense Minister Susak had told him and that Susak was seeking the United States position on the resumption of the formal pipeline. The Defense Minister needed a response in order to lay to rest the 1992 demarche issued to Croatia by the United States regarding an Iranian arms flight.[7] The Defense Attache reported further that the Croatians and Bosnians had been discussing this matter for quite some time, and the establishment of the Federation was seen by the two parties as the necessary catalyst for the resumption of the arms pipeline. The Defense Attache also commented that despite Defense Minister Susak's interest in the United States position, the Croatians were very likely to restart the formal pipeline even without United States acquiescence.[8] The Majority has suggested that Ambassador Galbraith put together the pipeline. The Defense Attache reporting demonstrates that this suspicion is unfounded.

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[6] For a complete discussion of the Defense Attache's contacts with Croatian officials, see Chapter Two, Section One.

[7] Department of Defense Cable, [redacted] Apr. 25, 1994. [redacted]

[8] Id. The Defense Attache reported that since Federation talks on March 12, 1994, the Croatians and Bosnians had been discussing the resumption of the formal arms pipeline. Of initial importance to the Bosnians was the transshipment of materiel that had been stockpiled by Croatia during the hostilities that had been intended for the Bosnians. Id. These would be the first shipments through the reestablished pipeline.

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After the No Instructions Response: The Department of Defense Changes Nothing.

The Defense Attache informed Ambassador Galbraith about the Susak meeting and was generally aware that the Ambassador was seeking guidance to respond to the Croatian request.[9] Unlike [redacted] personnel who reported on such policy matters and other intra-embassy conversations, the Defense Attache did not prepare reports on these discussions or the Ambassador's diplomatic activities.[10] Through intelligence reporting and other sources, however, the Department of Defense became aware that the Croatians had decided to proceed with the reestablishment of the pipeline. [redacted]

In early May 1994, Secretary of Defense Perry asked about the amount of weapons that would be arriving in the region and the extent to which the allies were aware of the shipments,[11] based on reporting he received on Iranian arms shipments from the Defense Attache Zagreb.[12] Secretary Perry never raised the diplomatic issue with the Central Intelligence Agency[13] or any

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[9] Select Subcommittee Deposition of LtCol. Richard Herrick, Aug. 20, 1996, at 19, 25 (hereinafter "Herrick Subcommittee Dep.").

[10] Id. at 33. The Defense Attache expiained that the circumstance surrounding the "no instructions" response were "purely . . . political" and not something he would report through his channels. Id.

[11] [redacted]

[12] Herrick Subcommittee Dep. at 42.

[13] Select Subcommittee Deposition of James Woolsey, Sept. 13, 1996, at 5-7 (hereinafter "Woolsey Subcommittee Dep."). The DCI had no recollection of discussing this matter at all with the Secretary. Id. at 5. The Defense Attache recalls, however, being told by the [redacted] that DCI Woolsey had discussed the matter with Perry. Id. at 39-40. Because the Defense Attache understood the "no instructions" response to be a policy matter, and he had received no inquires about it from his headquarters, he assumed that Secretary Perry was well informed and there was no need for him to be further involved. Id. at 40. [redacted]

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other Executive Branch agency.[14] Nor did Secretary Perry ever raise concerns that the response amounted to a covert action.[15] The [redacted] speculated that the failure by the Defense Attache and the Department of Defense to share in his concern about a possible covert action reflected a lack of knowledge. He reported on May 12, 1994 that the Department of Defense had contacted the Defense Attache regarding the arms shipments,[16] and speculated that the Department of Defense was "in the dark."[17] The speculation was not based on any contacts with the Department and contradicted his own earlier reporting.[18]

The [redacted] Reports Department of Defense "Concern."

Although the Minority found no evidence in the thousands of pages of documents provided by the Department of Defense to suggest concern about the United States response to Croatia's reestablishment of the arms pipeline, the [redacted] took it upon himself to continue reporting throughout the summer 1994 that the Department of Defense was concerned

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[14] Secretary Perry could have raised the issue in a Principal's Meeting at the National Security Council on May 20, 1995. At that meeting the question was raised if anything should be done about the Iranian arms shipments but the topic was tabled and never brought up again. If the Secretary had as much concern about the matter as the [redacted] intimated, this would have been the most opportune time to raise the matter. It is also of note that the DCI failed to raise the matter at that meeting.

[15] Woolsey Subcommittee Dep. at 7.

[16] [redacted] May 12, 1994.

[17] [redacted]

[18] When reporting to headquarters earlier in the week regarding what he believed to be happening at Embassy Zagreb, the [redacted] noted that the Defense Attache had reported his conversations with Susak through his channels.

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about this policy and its results. In his cables, the [redacted] reported general comments made to and by other United States officials regarding the Department of Defense in a way that made it appear that the Department of Defense, like the CIA, disagreed with the United States position in the region. This is simply not true.

For instance, the [redacted] reported extensively on meetings among Embassy officials prior to a summer visit by Secretary of Defense Perry to the region. According to the [redacted] he received a telephone call from the Department of Defense inquiring about the number of arms shipments the Bosnians were receiving and the frequency of those deliveries.[19] The [redacted] noted that this was an unusual request which confirmed his speculation that the Department did not know what was going on in the region. Actually, Embassy Zagreb was the premier source for intelligence on these shipments and given that they did impact on the military situation in the region, it would be natural for the Department to want the most current information prior to the Secretary's trip.

The [redacted] also recalls that the arms shipments might be raised by Defense Minister Susak in his meetings with Secretary Perry. This issue was addressed by the Defense Attache in a meeting with the [redacted] and the Ambassador prior to the Secretary's arrival.[20] The [redacted] dutifully reported this conversation, as still more proof that the Defense Department was in the dark on matters and that the Ambassador was preventing the Defense Attache from responding. In fact, the Ambassador offered to discuss the shipments with

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[19] Select Subcommittee Deposition of [redacted] Aug. 9, 1996, at 76 (hereinafter [redacted] Subcommittee Dep.").

[20] Herrick Subcommittee Dep. at 39.

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Secretary Perry personally which is hardly indicative of a desire to keep matters from the Department of Defense.[21]

Of course the Department of Defense would be concerned about any arms shipments reaching the region and their possible impact on the war and United States personnel in the region. This concern does not translate, however, into a concern about the April 1994 response. In at least three cables during the summer 1994, the [redacted] expressed the view that the Department of Defense did not know what United States policy in the region was, although he had absolutely no first hand evidence that this was the case.

Furthermore, even if the Department of Defense was unaware of the policy response, it was not the responsibility of the [redacted] to make an issue of something that the Department of Defense had not chosen to raise on its own. This type of second-hand reporting fueled the erroneous speculation at the CIA that unfounded covert activities were occurring without consulting the CIA or the Department of Defense; speculation which ultimately led to the IOB investigation and the establishment of this Select Subcommittee.

[21] The [redacted] attributes a statement to the Ambassador that he wished the CIA and DOD would get on board with the policy in the region. The Ambassador has no recollection of this comment nor does the Defense Attache, Herrick Subcommittee Dep. at 45, but if the Ambassador did make the comment, it would suggest that the Ambassador did not want to keep matters from these agencies. He repeatedly discussed ongoing events with the [redacted] who reported virtually everything that was said to him, and he discussed matters with the Defense Attache who had first hand involvement in the earlier April exchanges as well. No where except in the [redacted] comments is there a suggestion that the Department of Defense was not aware generally of events as they unfolded or that it was overly concerned about them.

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Rumors that the United States Was Involved in Covert Action.

Throughout the time in which the United States was involved actively in the Balkan crisis, allegations of covert action to arm the Bosnian Muslims emerged.[22] The allegations varied from air drops of weapons and uniforms to personnel training; none of there allegations were credible. Department of Defense personnel often encountered these allegations and always denied their validity.[23] It is ironic that while the [redacted] was asserting that the Department of Defense also suspected that covert activity was occurring in the region, the Department of Defense was doing everything it could to dissuade such thinking. General Wesley Clark, for example, who was responsible for the formulation and coordination of all policy for the Department of Defense, patently denied that the United States could be involved in such activity.[24] Within the Department, even those who disagreed with the United States Government view of the Bosnian Muslims as the wars' primary victims did not believe that the United States was involved in covert activity.[25]

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[22] Allegations of United States covert activity most frequently appeared in the European press. In May 1994, Le Canard Enchaine reported that the United States had been conducting night air drops to the Bosnian Muslims and that French troops had "closed their eyes" to such activity because it was so limited. No such activity occurred, however, the only air drops conducted by the United States being humanitarian aid relief coordinated within the international community.

[23] [redacted]

[24] SSCI Deposition of Gen. Wesley Clark, June 24, 1996, at 34-35.

[25] LtCol. John Sray served as G-2 to General Rose the UNPROFOR commander in 1994. Although Sray believed that the United States favored the Bosnian Muslims, he did not believe

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Thus, the Department of Defense did not take an active role in the diplomatic exchange in April 1994, nor set out on a course to undermine the response or the policy makers who instituted it. Where there were legitimate questions about weapons shipments or the level of allied awareness of the shipments, those questions were raised with those most knowledgeable; namely the [redacted] whose intelligence reporting on the arms deliveries into Bosnia was extensive and relied upon heavily. Unlike the CIA, the Department of Defense did not undertake to report on second and third hand conversations or speculation to imply that covert activity was occurring in the region. The Department of Defense went about fulfilling its mandate of collecting intelligence and providing troop support and security to the region.

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that favoritism extended to covert activity. Further, he and General Rose, who is British, did whatever they could to dispel such rumors when they arose. Select Subcommittee Dep. of LtCol. John Sray, Aug. 29, 1996, at 15-16 (hereinafter "Sray Subcommittee Dep.").

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Chapter Two
Section Four

THE MAY 1994 CONVOY INCIDENT

The overriding objective on the ground in Bosnia in 1994 and throughout most of the war was to provide food, clothing and medical supplies to the Bosnians. The primary means of delivering these supplies was relief convoys. The convoys numbered in the thousands and were often stopped by Bosnian Croats to harass the Muslims. Often, the office of the United Nations High Commissioner on Refugees which administered the United Nations convoy relief operation would contact United States Government officials for assistance in gaining the release of detained convoys. On many occasions, United States officials would intercede to expedite the progress of these convoys. Intelligence and other sources raised suspicions about whether some relief convoys may have carried weapons in addition to humanitarian supplies. The Minority believes that some convoys did carry weapons, but found no evidence to suggest that any United States Government official knowingly assisted in the relief of such a convoy.

On May 13, 1994 The Washington Post published two front page stories related to Bosnia.[1] The first recounted the Senate's two narrow votes to unilaterally and multilaterally lift the embargo against the Bosnian Muslims. The second story reported details of the first delivery of an Iranian arms shipment to the Bosnian Muslims, including the plane's landing in Zagreb and the weapons passage into Bosnian territory. The account also detailed Bosnian attempts to have

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[1] Senate Votes Arms for Bosnia, The Washington Post, May 13, 1994, at A1; Thomas Pomfret, Iran Ships Explosives to Bosnian Muslims, The Washington Post, May 13, 1994, at A1 (hereinafter "Pomfret").

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United States officials in Vienna intercede on their behalf when the convoy carrying weapons was stopped by the Bosnian Croats.[2]

According to the Washington Post article, an Iranian arms flight arrived in Zagreb, and was quickly off loaded to a convoy for transport to Bosnia by Croatian officials. The convoy traveled without incident through Croatia but was halted in Tomislavgrad, located just inside Bosnia. Apparently Bosnian Croat forces stopped the convoy because they wanted a portion of the weapons on board. Bosnian officials sought to use diplomatic pressure to obtain the convoy's release. The article reported that Bosnian officials contacted the United States embassy in Vienna on May 10, 1994, seeking assistance with the problem.[3] The call came to Embassy Vienna because it was hosting ongoing negotiations between the Bosnian Croats and Muslims regarding the terms of the Federation Agreement,[4] and it was logical to seek a solution at an event where all the parties were convened. The article reported that the Bosnians sought the Croatian government's assistance after having no success with the United States embassy. The Croatian government intervened and finally arranged for the passage of the convoy.[5]

The article does not suggest United States involvement in the convoy. To the contrary, the article explains that the United States could do nothing to facilitate its release.[6] When the article was received at Embassy Zagreb, however, the DCM and the [redacted] began

[2] Pomfret at A43.

[3] Id.

[4] Id.

[5] Id.

[6] Id.

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speculating on who had been contacted about the convoy in Vienna. The [redacted] coupled the speculation with indications that the Bosnians may have placed requests to release the convoy to Embassy Zagreb and reported to [redacted] headquarters the DCM's speculation that Special Envoy Redman may have intervened on behalf of the arms convoy. The report fueled suspicions at the CIA that certain United States officials were engaged in covert activity to arm the Bosnian Muslims. Ultimately, these suspicions regarding the convoy were elevated to a sufficiently high level to comprise part of the investigation undertaken by the Intelligence Oversight Board in November 1994.

The Minority concludes that Special Envoy Redman did not intervene knowingly to have an arms convoy released. Some circumstantial evidence suggests that Special Envoy Redman may have made a call from Vienna regarding a convoy during the first week of May 1994. The source of that evidence, however, testified that Special Envoy Redman had no knowledge or awareness of any arms on the convoy.[7] Further, no evidence of any kind exists to suggest that Ambassador Galbraith or any other United States personnel facilitated the release of this convoy or any prior or subsequent arms convoys.

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[7] Special Envoy Redman's Intelligence Assistant testified before staff of the Senate Select Committee on Intelligence that Special Envoy Redman received word that a blocked convoy was the reason for the breakdown of the negotiation talks. Special Envoy Redman suggested to the United States delegation that perhaps he should make a call to have it released in order to allow the negotiations to proceed. Testimony of [redacted] Senate Select Committee on Intelligence, May 31, 1996. [redacted] has no firsthand knowledge if Special Envoy made the call, but within hours, the talks resumed and there was no more discussion about a convoy, so she assumed he had acted. Id.

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Convoys to Bosnia.

Virtually every person interviewed by the Select Subcommittee who had been stationed in or operated out of Embassy Zagreb, testified that the issue of humanitarian convoys was one they dealt with on a daily basis.[8] Humanitarian relief convoys were virtually the only way supplies and materiel could reach the besieged Bosnian Muslims. As a result, ensuring the safe and continuous passage of convoys through foreign territory was a large part of any negotiations in the region.[9] During 1993, for instance, Ambassador Galbraith demarched the Croatians regarding their lack of enthusiasm for helping humanitarian relief convoys. It was essential to areas such as Tuzla and Sarajevo that humanitarian and commercial convoys be allowed into Bosnia.[10] The success of these convoys depended in large measure on Croatian willingness to pressure the Bosnian Croats to allow blocked convoys to pass.[11]

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[8] See Select Subcommittee Deposition of Peter Galbraith, Aug. 19, 1996, at 133 (stating that convoys were a regular business for embassy [Zagreb]) (hereinafter "Galbraith Subcommittee Dep."); Select Subcommittee Deposition of Thomas Mittnacht, Aug. 14, 1996, at 15 (explaining that a typical day in 1994 would find him spending a couple hours a day on the humanitarian situation including how many convoys were moving) (hereinafter "Mittnacht Subcommittee Dep."); Select Subcommittee Deposition of Lt Col Herrick, Aug. 20, 1996, at 100, 152 (noting his involvement in getting convoys released sometimes twice a month during 1993 and 1994)(hereinafter "Herrick Subcommittee Dep."); Neitzke Subcommittee Dep. at 247 (noting that from 1993 on, one of the most frequent topics with the government of Croatia was trying to get them to intervene . . . to allow passage of . . . relief convoys. . . .).

[9] Galbraith Subcommittee Dep. at 133.

[10] Id. Ambassador Galbraith explained that commercial traffic was essential to the reestablishment of these communities. Id.

[11] Neitzke Subcommittee Dep. at 247.

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As a result of this near constant diplomatic activity regarding convoys, United States personnel in the region, particularly those in Embassy Zagreb, became so accustomed to handling requests about convoys that the May 1994 convoy was not distinguishable from other convoys.[12] No one gave the convoy any thought until the Intelligence Oversight Board launched its investigation into what role, if any, United States personnel may have had in facilitating its release.[13]

The May 1994 Convoy and Embassy Zagreb.

At some point during the first week of May, Ambassador Biserka Turkovic, the Bosnian Ambassador to Croatia, contacted Ambassador Galbraith and requested his intervention with the Croatian government to facilitate the release of a convoy.[14] She explained to the Ambassador

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[12] Herrick Subcommittee Dep. at 100-04 (noting his surprise when he learned during Senate testimony that the convoy was a concern); Neitzke Subcommittee Dep. at 383 (explaining that the Bosnian Ambassador's hysterical state was the only reason the convoy was memorable); Select Subcommittee Deposition of Charles Redman, Aug. 27, 1996, at 127 (indicating that this convoy made no impression on him until others began asking about it months later).

[13] Redman Subcommittee Dep. at 127-28.

[14] Galbraith Subcommittee Dep. at 131; Neitzke Subcommittee Dep. at 248; [redacted] Subcommittee Dep. at 127-28; Herrick Subcommittee Dep. at 104. The Majority Report asserts that Ambassador Turkovic had attempted to convince the U.S. Ambassador to Bosnia, Victor Jackovich, to join her in the convoy but that he declined the invitation. See Majority Report at 136. While Ambassador Jackovich testified that Ambassador Turkovic had asked him to join a convoy, he suggested that "I'm not sure we're talking about the same thing. See Select Subcommittee Deposition of Ambassador Victor Jackovich, Aug. 29, 1996, at 58 (hereinafter "Jackovich Subcommittee Dep."). He further testified that he is not sure whether the convoy ever traveled to Bosnia. The convoy Ambassador Jackovich described was to have traveled from Zagreb to Tuzla. Its route was to have been east through the Slavonia region of Croatia then south through a small stretch of Serb-controlled and then Federation territory to Tuzla. Id. at 59-61. The convoy led by Ambassador Turkovic in May, on the other hand, was stopped in

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that her convoy was trapped between the Bosnian Croats and Bosnian territory.[15] Ambassador Turkovic expressed hope that the Ambassador could convince the Croatian government to persuade the Bosnian Croats to let the convoy pass.

Ambassador Galbraith did not intervene on the Bosnians behalf.[16] Although no tangible evidence had been presented to the Ambassador suggesting that the convoy may have been carrying arms, he believed that arms may have been part of the cargo and did not want to be involved.[17] Ambassador Galbraith had become aware that an Iranian cargo plane had landed at Zagreb airport[18] and he reasoned that if the convoy had originated with that shipment, he would be overstepping United States policy on these shipments.[19] He believed that his involvement in such a convoy would give the appearance of United States complicity with the arms shipments which contravened the policy response he and Special Envoy Redman had just delivered to

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Tomislavgrad, which is in Hercegovina, near the Croatian border. A knowledge of geography would demonstrate that the convoy that Ambassador Jackovich was asked to lead could not be the same one about which Ambassador Turkovic called the U.S. embassy in May.

[15] Id.

[16] Galbraith Subcommittee Dep. at 133; Select Subcommittee Interview of Anthony Harrington, July 25, 1996, (noting that the IOB found no evidence to suggest that Ambassador Galbraith had intervened to release the convoy).

[17] Galbraith Subcommittee Dep. at 133.

[18] Ambassador Galbraith had received press inquiries prior to the publication of the Washington Post article and these journalists had informed him of the Iranian cargo flight. Id. Based on this information, Ambassador Galbraith deduced that the convoy may have resulted from the Iranian flight. Id.

[19] Id. at 138-39.

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President Tudjman.[20] Ambassador Galbraith did not want allegations suggesting that the United States was urging the passage of weapons, as that was not the intended policy position.[21]

The media became very interested in the convoy story.[22] Because the affair was thoroughly reported in the media it was discussed in the country team meetings. Numerous journalists contacted the embassy for the United States reaction to the Iranian cargo flight and Ambassador Turkovic's convoy.[23] The Ambassador and the public affairs officer simply responded "no comment," because they lacked knowledge of the incident. Once the media interest in the story subsided, the embassy had no further discussions about or involvement with the convoy.

Special Envoy Redman's Contact with the May Convoy.

Special Envoy Redman was in Vienna, Austria during the first week of May negotiating with the Bosnian Croats and the Bosnian Muslims on various aspects of the Federation. During one of the negotiation sessions, the process stalled and the delegations departed.[24] The U.S. delegation learned subsequently that the breakdown was the result of a convoy being blocked by

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[20] Id.

[21] Id.

[22] Hovanec Subcommittee Dep. at 40.

[23] Id. at 42; Galbraith Subcommittee Dep. at 133.

[24] Select Subcommittee Interview of [redacted] Aug. 21, 1996, at 1 (hereinafter [redacted] Subcommittee Int.").

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the Bosnian Croats.[25] In order to proceed with the negotiations, the Bosnian Muslims asked Special Envoy Redman to get the convoy released.[26] Special Envoy Redman does not recall intervening on behalf of the Bosnian Muslims to have a convoy released,[27] but soon after the request was made the talks resumed and there was no more discussion of convoys.[28]

Neither Special Envoy Redman nor any of his staff had any knowledge that the convoy might have contained arms.[29] Special Envoy Redman's only concern was the effect the blockage was having on the negotiations and the need to remove the impediment. Special Envoy Redman had dealt with convoy issues in the past while negotiating the winter relief efforts in Bosnia.[30] Special Envoy Redman relied on the mechanisms created by the UNHCR to monitor the flow of convoys and what they contained;[31] he concentrated his efforts on obtaining

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[25] Id.

[26] Id.

[27] Redman Subcommittee Dep. at 127-28.

[28] [redacted] Subcommittee Int. at 1. (S)

[29] Id.; Redman Subcommittee Dep. at 127, 129.

[30] Redman Subcommittee Dep. at 128-29.

[31] According to officials with the UNHCR, convoys had to be cleared at least one week in advance by all parties of whose territory the convoy crossed. Minority Staff Telephonic Interview of Anne-Willem Bijleveld, Aug. 1, 1996, at 1 (hereinafter "Bijleveld Minority Int."). At each checkpoint along the route, the convoy could be subjected to a full or spot inspection. Id. The convoys often would be blocked until a settlement conducive to all parties was reached which often meant the splitting of the convoy's cargo. Id. The mercurial nature of the warring parties and individual security guards made the issue of convoys a daily battle for UNHCR and those working to facilitate convoy traffic. Id.

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guarantees that the convoys could flow unimpeded.[32] Special Envoy Redman and his diplomatic counterparts had neither the mandate nor the time to determine what was contained on each convoy entering Bosnia.[33]

Reporting by the [redacted]

On May 14, 1994, the [redacted] reported to his headquarters about a conversation he had with the DCM concerning the Washington Post article. During this conversation the DCM informed the [redacted] of the "hysterical" telephone call Ambassador Turkovic had placed to the Embassy.[34] The DCM told the [redacted] that Ambassador Turkovic wanted Ambassador Galbraith to intercede with the Croatian government, but he refused to do so.[35] The DCM also told the [redacted] that Special Envoy Redman had been contacted in Vienna.[36] The DCM believed that someone had intervened to have the convoy released and it was likely

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[32] Redman Subcommittee Dep. at 128-129.

[33] Id. at 133. Special Envoy Redman explained that neither he, the European presidents, or the foreign ministers could determine if humanitarian relief was the only thing on the convoys; such things fell under the control of the UNHCR. Id. In May 1994, for example, there were 308,000 people affected by the war in the Southern region of Bosnia to which this convoy was headed. In that month alone almost 2,600 metric tons of food were delivered by U.N. and privately sponsored convoys. In the midst of the difficult Balkan negotiations, it would have been virtually impossible for the Special Envoy or any other diplomat to determine what one particular convoy contained on a given day.

[34] Neitzke Subcommittee Dep. at 248; [redacted] Subcommittee Dep. at 127-28.. [redacted]

[35] [redacted]

[36] [redacted] Subcommittee Dep. at 127-28. In his Subcommittee testimony, the DCM was noncommittal as to whether he in fact said this to the [redacted] Neitzke Subcommittee Dep. at 383. [redacted]

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Special Envoy Redman.[37] The DCM did not explain the source of his belief that Special Envoy Redman or the United States had intervened despite the fact that the Washington Post asserted that no United States official helped to satisfy the Bosnian request. [redacted]

Since April 1994, the DCM suggested, and the [redacted] reported, Special Envoy Redman had attempted to find a way to arm the Bosnian Muslims. In a report to headquarters on April 20, 1994, the [redacted] explained that the DCM told him that Special Envoy Redman and perhaps others were considering a covert action plan similar to the United States role in Afghanistan to circumvent the arms embargo.[38] Special Envoy Redman has no recollection of pursuing any such proposal and was unsure of the source of the statement.[39] The DCM also could not recall telling the [redacted] that the Special Envoy was considering a covert action plan. [redacted]

Throughout the summer the DCM continued to encourage speculation about Special Envoy Redman. In July 1994, he commented to the [redacted] that Special Envoy Redman's key role in the entire affair was not well known in Washington.[40] The [redacted] who by this time had been instructed repeatedly by his headquarters to report anything that looked like United States involvement in arming the Muslims,[41] dutifully reported his

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[37] See Neitzke Subcommittee Dep. at 247 (explaining that he did not personally intervene but that he was sure [the United States] intervened; Redman may have intervened. . . .").

[38] [redacted] Apr. 20, 1994. [redacted]

[39] Redman Subcommittee Dep. at 86.

[40] [redacted] July 26, 1994. [redacted]

[41] Although he was cautioned to refrain from editorializing on the issue of arms shipments, the [redacted] continued to encourage the [redacted] to report including information

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conversation with the DCM. This report added to the inaccurate and growing suspicions at the CIA that something was happening to which it was not privy.

The reporting of the DCM's unsubstantiated claims that Special Envoy Redman intervened in this convoy, together with other reporting of the DCM's allegations led to increased skepticism at the CIA about what was happening at Embassy Zagreb. In a conversation with Special Envoy Redman's intelligence assistant, also voiced concerns about Special Envoy Redman's role.[42] The told the intelligence assistant about his belief that Special Envoy Redman had helped precipitate the Iranian arms flows during his meeting with President Tudjman and Ambassador Galbraith and related that to his alleged involvement in the May 1994 convoy.[43] Special Envoy Redman's assistant explained that there was no reason for Special Envoy Redman to take an active role in any Bosnian-Croatian matters other than to bring the parties to negotiation.[44] It was her opinion that the was exaggerating Special Envoy Redman's role in the whole affair.[45]

Because of the DCM's persistent speculation about Special Envoy Redman's involvement and the persistent reporting of conversations with other embassy personnel, the IOB was asked to investigate whether Special Envoy Redman facilitated the flow

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he obtained in conversations with other United States embassy personnel. The CIA repeatedly instructed the to continue reporting information as he had been between 4-11/94.

[42] Subcommittee Int. at 1.

[43] at 1-2.

[44] at 1.

[45] at 2.

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of arms to Bosnia. The IOB concluded that circumstantial evidence existed to suggest that Special Envoy Redman had done something for Ambassador Turkovic's convoy, but even if he had interceded, Special Envoy Redman lacked any knowledge that the convoy contained arms. Furthermore, as discussed in Chapter One, Section Five of the Minority Views regarding the definition of covert activity, even if Special Envoy Redman had known that arms were on board and had facilitated the release of the convoy, his actions would not have constituted a covert action.

The Minority concludes that had it not been for this rampant speculative reporting, the May 1994 convoy would have been no more significant than the thousands of other convoys that traversed the region during the war. The allegations of misconduct and possible covert action were wholly unsupported by any evidence and should not have been accorded the level of significance that was afforded them. The Minority also believes that the CIA must do a better job of distinguishing between speculation and gossip in intelligence reporting. The speculation by the DCM about Special Envoy Redman was rumor and gossip, not intelligence.

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Chapter Two
Section Five

ALLEGED MEETINGS BETWEEN AMBASSADOR GALBRAITH AND THE MUSLIM CLERIC OMERBASIC.

The transshipment of arms from Iran and other Islamic countries to Bosnia through Croatia undoubtedly involved the work of middlemen, arms dealers and other shadowy figures. The shadowy figure who emerged in the Select Subcommittee investigation was Imam Omerbasic, the religious leader of the Muslims in Zagreb. The Minority shares the belief that Imam Omerbasic played a role in arranging arms shipments to the Bosnian Muslims. However, the Minority strongly objects to any effort to connect the Imam's role to any United States Government official. For example, Imam Omerbasic met with Senator Bob Dole who also was sympathetic to the plight of the Bosnian Muslims. To suspect Senator Dole on the basis of a meeting and his sympathy for the Bosnians would be ludicrous. To do so in the case of Ambassador Galbraith is equally so.

Celebrating the End of Ramadan.

One of the first allegations that United States officials may have been involved in covert attempts to arm the Bosnian Muslims surfaced in April 1994, before the United States responded to Croatia's inquiry about the resumption of the formal arms pipeline to Bosnia. [redacted]

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[redacted]

Upon receipt of the cable, the [redacted] attempted to ascertain if anyone in the embassy had met with the cleric or had any information about the identification of the United States officials. After learning that the Ambassador and the Economic Commercial Officer[2] had been at the Mosque the month prior, the [redacted] cabled back to [redacted] headquarters before checking all the facts and reported that it was the Ambassador who had met with the cleric and discussed the conveyance of arms. [redacted]

Testimony and documents reviewed by the Select Subcommittee staff offer no evidence to suggest that a secret contact or conversation between the Ambassador and the cleric ever occurred and that supplying Bosnia with arms was ever discussed.

Visits with the Imam.

The Select Subcommittee has confirmed with various Embassy Zagreb personnel that the cleric was a well known figure in the Zagreb Muslim community who often appeared on television and in the press to discuss the Bosnian Muslim condition. As such, the Ambassador,

[redacted]

[2] The Economic Commercial Officer was responsible for maintaining the Embassy's contact with the religious communities in Croatia.

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other Embassy Zagreb personnel and visiting Members of Congress and staff paid courtesy calls on the Imam, when appropriate. For instance, in an interview of the Imam by the Select Subcommittee, Mr. Omerbasic acknowledged meeting with Senator Dole and Representative McCloskey on their trips to the region."[3] Certainly if the Ambassador or any other United States Government official in Croatia had discussed with the cleric a rogue operation to provide the Bosnians with arms, the Embassy would be reluctant to facilitate meetings between Members of Congress and the Imam out of concern that the cleric might disclose the illicit operation.

The Majority Report asserts that Ambassador Galbraith and Cleric Omerbasic met a number of times between August 1993 and April 1994. The Select Subcommittee heard testimony from several sources who described the infrequent contact between the Ambassador and the cleric; limited to one or perhaps two meetings between the Ambassador and the cleric.[4]

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[3] Select Subcommittee Interview of Imam Sevko Omerbasic, Aug. 21, 1996, at 1 (hereinafter "Omerbasic Subcommittee Int."). The Majority report characterizes Mr. Omerbasic's answers to staff questions during this interview as "demonstrably false." However, the Majority report offers no evidence to support this comment. In the absence of proof, the minority does not similarly question the portion of the Imam's interview relating to his contacts with Ambassador Galbraith.

[4] The Majority report cites two sources for its assertion that "several meetings" occurred during 1992-1993: the Select Subcommittee Deposition of Charlotte Stottman, Aug. 10, 1996 and a Memo of Interview of Terri Lee Baker prepared by Julia Gaines and Janine Doherty. The Minority questions both of these cites. First, during her deposition, Ms. Stottman claimed that the name Omerbasic "was familiar" and that he came to the Embassy "more than once." Id. at 38. Ms. Stottman did not offer and the Select Subcommittee was unable to determine any corroborating evidence to prove that the Imam ever visited Embassy Zagreb for any purpose. In subsequent interviews, colleagues of Ms. Stottman noted that she was moody and perhaps the victim of a split personality. Further, upon attempting to corroborate Ms. Stottman's memory of factual issues, she was found to be in error on many occasions. In light of these factors, the Minority has difficulty relying on her recount of events and questions her credibility. See Select Subcommittee Interview of Terri Lee Baker, Aug. 19, 1996; Select Subcommittee Interview of Shane Pitzer, Aug. 30, 1996; Select Subcommittee Interview of Duska Djuric, Aug. 21, 1996.

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The first meeting took place in July 1993, when the Ambassador made a courtesy call on Imam Omerbasic at his office in the Zagreb Islamic Center.[5] It is customary for a new Ambassador to pay a courtesy visit to all government officials and community leaders - including religious leaders. The embassy Protocol Affairs Officer, arranged the meeting and Susan Hovanec, the embassy's Public Affairs Officer, accompanied the Ambassador to the meeting.[6] While their discussion lasted more than an hour, in part because it was facilitated through an interpreter, the conversation centered mostly on the war and the vast number of Muslims who were dying as a result. Ms. Hovanec characterized the meeting as a "sad recital of suffering."[7]

Second, the Select Subcommittee Interview of Terri Lee Baker, Aug. 19, 1996, at 1, accurately noted that Ms. Baker had no knowledge of an individual named Imam Omerbasic and it is therefore unclear how she would be aware of "several meetings." Additionally, in a Memorandum of Interview of Terri Lee Baker prepared by Carrie Moore, Ms. Baker is noted to have stated that she never scheduled meetings for the Ambassador and Mr. Omerbasic.

[5] Select Subcommittee Deposition of Susan Hovanec, Aug. 7, 1996, at 33 (hereinafter "Hovanec Subcommittee Dep.").

[6] Id. at 33-34. Ms. Hovanec testified that the Embassy Protocol Affairs officer, Ms. Duska Duric, probably made the arrangements for the meeting, but that she (Susan Hovenac) also may have arranged it. Later, Ms. Hovanec remembers that Economic Commercial Officer Tom Mittnacht also may have scheduled the meeting. Id. at 77. Ms. Hovanec claims that one of the reasons she accompanied the Ambassador to the meeting was because she speaks Croatian and was able to certify that the interpreter's translations between Ambassador Galbraith and Mr. Omerbasic were correct.

[7] Hovenac Subcommittee Dep. At 34. See also, Select Subcommittee Deposition of Peter Galbraith, August 19, 1996, at 77, 80 (hereinafter "Galbraith Subcommittee Dep."). Ambassador Galbrith did not offer any information about this meeting during his deposition. Although the Ambassdor did not recall having met Imam Omerbasic prior to March 13, 1994, he did not exclude that there might have been some other occasion, for instance the Fourth of July party in 1993, when they may have met. Ambassador Galbraith did recall generally paying a courtesy call with "some Muslim leaders" in the summer of 1993, but he was unable to identify anyone in particular. Id.

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The second meeting between the Ambassador and Imam Omerbasic, if it occurred at all, may have occurred on Sunday, March 13, 1994, the last day of the Muslim holy month of Ramadan.[8] Ambassador Galbraith and Tom Mittnacht, the embassy's Economic Commercial Officer, had been invited to attend a gathering (the feast of Eid) to mark the end of Ramadan. Dr. Izet Aganovic, the President of the Merhamet relief organization and an individual with whom Mr. Mittnacht had frequent business contact, had extended the invitation to the Ambassador.[9] At 8:30 am on March 13, the Ambassador and Mr. Mittnacht went to the mosque to attend the early morning celebration in a show of solidarity with the Muslim community in Zagreb.[10] Both the Ambassador and Mr. Mittnacht characterized this event as a festive occasion in which mere pleasantries were exchanged, rather than a business meeting.[11] The Ambassador testifies that March 1994 was the last time he met with the cleric.[12] (The Ambassador's

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[8] Galbraith Subcommittee Dep. at 77.

[9] Select Subcommittee Deposition of Tom Mittnacht, Aug., 14, 1996, at 46 (hereinafter "Mittnacht Subcommittee Dep."). Mr. Mittnacht testified that, in the course of his day to day work tracking progress of the humanitarian aid convoys and organization relief efforts, he had frequent contact with relief organizations including Merhamet and its director, Dr Izet Aganovic.

[10] Mittnacht Subcommittee Dep. at 47.

[11] Galbraith Subcommittee Dep. at 78; Mittnacht Subcommittee Dep. at 47-48.

[12] Galbraith Subcommittee Dep. at 79. The Majority Report notes the presence of the business card of Mr. Omerbasic in the Ambassador's Rolodex as recently as August 1996, perhaps as a suggestion that the Ambassador and the cleric had a great deal of contact despite the Ambassador's firm recollection to the contrary. The Minority is not aware of how the Majority obtained information about the contents of the Rolodex, as no copy of the Ambassador's Rolodex was ever requested by, received, or made available to the Select Subcommittee. A photocopy of Omerbasic's business card appeared in the Select Subcommittee files on October 22, 1996.

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recollection of the cleric's presence during the post-Ramadan meeting may be in error, however, as Mr. Mittnacht testified that the cleric was not present. In addition, the cleric informed the Select Subcommittee that he did not specifically recall attending the Feast of Eid.[13]).

The [redacted] Tries to Identify the United States Officials, but Jumps to Conclusions.

[redacted][14]

[redacted][15]

In late April 1994, six weeks after the Ramadan celebration, the [redacted]

[redacted][16]

[13] Omerbasic Subcommittee Int. at 1. The cleric remembered meeting Ambassador Galbraith in 1993, but did not specifically recall if he or the Ambassador were present at the feast of Eid in 1994.

[14] Select Subcommittee Deposition of [redacted] Aug. 9, 1996, at 61-62 (hereinafter [redacted] Subcommittee Dep.").

[15] [redacted] Subcommittee Dep. at 62 [redacted]

[16] [redacted]

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[redacted] If United States officials had attempted to obtain arms for the Bosnian Muslims, it is highly unlikely that the Imam would have waited a month to report such an important contact and request to his Iranian contacts. [redacted]

The [redacted] speculated that the meeting between the United States officials and the cleric involved "apparent collusion" with Iran on the delivery of arms and tasked his Deputy to approach the embassy's Economic Officer Tom Mittnacht to inquire what United States officials had met with the cleric.[17] After Mr. Mittnacht replied that he and the Ambassador were at the Eid celebration at the Mosque in March, [redacted][18] [redacted] did not ask Economic Officer Mittnacht what had transpired at the meeting[19] and consequently, filed an incomplete cable back to his headquarters that merely offers that the Ambassador may be one of the unidentified officials. [redacted]

When the Ambassador returned from travel, the [redacted] approached him about the intelligence report. Ambassador Galbraith reviewed the report, verified his presence at the

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[17] [redacted] Senate Select Committee on Intelligence Hearing Apr. 31, 1996, (testimony of the [redacted] at 16; The [redacted] did not approach the Embassy Zagreb officer personally when investigating his concern. Instead, he asked his [redacted] to make a generic request about what United States officials may have met with the Imam.

[18] This is most curious because the cable has no reference to a date of the alleged meeting between the cleric and the U.S. government officials. [redacted]

[19] [redacted]

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Mosque the month before, and denied discussing the issue of arms at all with the Imam.[20] Because he did not ask for any additional information from Economic Affairs Officer Mittnacht or Ambassador Galbraith, the [redacted] cable was filled with inaccuracies and speculation. For instance, the [redacted] failed to report in his cable to headquarters that Mr. Mittnacht did not think that the cleric was present at the feast of Eid and that the Ambassador, therefore, may have been in error in remembering that Mr. Omerbasic was present at the event.[21] The [redacted] did not check, nor did he report that both Mr. Mittnacht and the Ambassador were in each other's presence during the entire event and that no discussion of arms shipments occurred.[22] Finally, the reporting inaccurately portrays the character of the event; referring to it as a meeting rather than a festive event to mark the end of Ramadan to which the local press was invited. At best, the reporting is speculative and incomplete. At worst, it appears to be intentionally misleading since it states as fact that Mr. Mittnacht said that he and the Ambassador met with the cleric, but fails to include Mittnacht's true recollections that the cleric was not present, that arms were not discussed, [redacted]

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[20] [redacted] Subcommittee Dep. at 30.

[21] Mittnacht Subcommittee Dep. at 45. When asked if he had met the cleric, Mittnacht replied that he recalled meeting the cleric in November 1992, and then says "I have to confess, I believe it's been said that he was at this meeting in March of 1994, but I don't distinctly recall him being there." See also, Galbraith Subcommittee Dep. at 78 (explaining he remembers meeting the cleric at the feast of Eid).

[22] Mittnacht Subcommittee Dep. at 48 (explaining that he does not recall any instances in which he might not be within earshot of the Ambassador); [redacted] Subcommittee Dep. at 30 (noting that Ambassador Galbraith said he never discussed arms with the cleric); [redacted]

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In response to a question posed to the cleric asking if the Ambassador ever was involved in working to arm the Bosnian Muslims, the cleric replied that "unfortunately" that was not the case.[23] The Imam explained that if the Muslims had received weapons from the United States, they would have not have suffered as many casualties.[24] The cleric went on to state that he had no knowledge of any United States officials involved in arming Bosnia.[25] That Imam Omerbasic expressed disappointment that the United States had not supplied arms to the Bosnian Muslims, further casts doubt on the possibility that Ambassador Galbraith or any other United States official ever had made an offer of arms.

A Case of Mistaken Identification.

The record is clear. The Ambassador first met Mr. Omerbasic in July 1993 on a courtesy call. Arms were not discussed. The second possible contact between the Ambassador and the cleric with respect to which none of the participants -- including the cleric -- has a clear memory of who attended, was a social event covered by the press in which no discussion of arms occurred. Two years later in May 1996, when the new Deputy Chief of Mission Robert Finn made a courtesy call on the Imam, the cleric noted that he was the first official from the Embassy the cleric had met with in two years.[26]

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[23] Omerbasic Subcommittee Int. at 1.

[24] Id.

[25] Id.

[26] Select Subcommittee Interview of Robert Finn, Aug.18, 1996, at 2.

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[redacted] but no credible evidence exists to confirm the speculation by the [redacted] that United States government officials were "colluding" with Iran on weapons. In fact, the speculative, incomplete and inaccurate nature of the reporting created suspicions within the CIA that a covert operation, spearheaded by Ambassador Galbraith, was underway. This was wildly disproportionate to the facts. [redacted]

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Chapter Two
Section Six

MYSTERY FLIGHTS INTO TUZLA

Among the most publicized allegations of United States involvement in arming the Bosnian Muslims involved the February 1995 reports of United States cargo aircraft landing at Tuzla airport. These reports were investigated at the time they occurred by NATO, the Defense Department and the Central Intelligence Agency. No evidence confirming the reports was discovered. The Minority also has not been able to identify credible evidence of the alleged flights.

The reports of phantom C-130 cargo planes escorted by fighter jets first surfaced in the public media in February 1995.[1] According to press accounts,[2] United Nations peacekeepers reported hearing and seeing cargo planes escorted by fighter aircraft flying over the Tuzla airport

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[1] Allegations that the United States was conducting covert arming of the Bosnian Muslims in Sarajevo were not new. A United States Army colonel stationed with the UNPROFOR commander heard similar allegations as early as 1994. These allegations likely were premised on the fact that the United States regularly conducted humanitarian food drops in the Tuzla region from C-130s stationed out of Germany. He believed, and the commander of UNPROFOR concurred, that these rumours were being circulated "by people who felt it in their interest to do so." Select Subcommittee Deposition of LtCol John E. Sray, Aug. 29, 1996, at 16 (hereinafter "Sray Subcommittee Dep."). In 1994 the colonel and others from European Command investigated the allegations and confirmed that there were food drop operations being conducted and no covert activity on the part of the United States. Id. at 21. The rumours that carried through 1995 that the United States was involved in some sort of covert operation likely stemmed from these earlier rumours.

[2] See, e.g., NATO Finds No Trace of Mystery Bosnian Aircraft, Reuters, Feb. 12, 1995 (United Nations peacekeepers reported fresh sightings of mystery aircraft); Robert Fox, Hercules Flights Never Explained, The Daily Telegraph, Jun. 2, 1995, at 1 (Flights of a C-130 Hercules were heard landing at the Tuzla airport in February); U.N. Says There's No Proof of Arms Shipments to Bosnian Moslems, Deutsche Press-Agentur, Mar. 1, 1995 at A9 (U.S. Built C-130s are speculated to have been used by the United States or Turkey to run covert operations).

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on the nights of February 10 and 12, 1995.[3] On the evening of February 10, 1995, a patrol went to investigate the alleged flight but retreated after being fired upon by Bosnian Muslim forces.[4] Although no cargo or other aircraft actually were observed on the ground at any of the four airstrips which comprise the Tuzla airport region, the press reported speculation that the United States was involved. Press speculation about a United States role in the flights persisted because it was believed that the C-130s may have been conducting maneuvers such as air drops of high technology weapons that could have only been performed by only a few countries such as the United States, France, and Britain.[5]

On both occasions, NATO, the entity responsible for maintaining the no-fly zone over Bosnia, found nothing to verify that the flights had taken place.[6] The speculation continued, however, because the United States had primary responsibility for the monitoring of the no-fly zone via radar and other aircraft and thus presumably could have allowed the flights to proceed "undetected." Some alleged that the United States also would have been in the position to know when radar coverage of the Tuzla area would be diminished sufficiently to permit clandestine

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[3] Catherine Toups, Russia Demands Answers at U.N.; Suspects Secret Arms Drops in Bosnia Denying Embargo, The Washington Times, Feb. 25, 1995, at A9.

[4] U.S. Turned Blind Eye to Airdrop to Bosnian Muslims, Reuters, Oct. 30, 1995.

[5] Id.

[6] See U.N. Says There's No Proof of Arms Shipments to Bosnian Moslems, Deutsche Press-Agentur, Mar. 1, 1995 (statement by U.N. spokesman Fred Eckhard)(There is no proof to support the theory that U.S. cargo planes have recently made weapons drops to the Bosnian Moslems).

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flights.[7]

On February 24, 1995, the Russian delegation to the United Nations Security Council asked for a formal report from NATO and the United Nations on the mystery flights.[8] NATO subsequently launched a military investigation into the matter. Military investigators traveled to Tuzla and interviewed eye witnesses in order to reconstruct events.[9] The military investigation concluded that the flights observed by the Norwegian members of UNPROFOR on February 10 and 12, 1995, were attributed to "scheduled . . . NATO flights."[10] NATO released the results of its investigation on March 1, 1995.[11] Despite the NATO investigation, questions continued to linger within European circles about the Tuzla flights and possible United States involvement. Press reports continued sporadically throughout 1995, quoting unidentified U.N. officials alleging that the flights "had been a weapons delivery" and that "the United States had approved of the . . . operations."[12]

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[7] INF Memorandum, Feb. 21, 1995, at 1. At the time, only one AWACs radar plane was monitoring the area over Bosnia, and Tuzla was located at the edge of the AWACs' effective range. Id.

[8] Id. In his address to a closed session of the Security Council, Yuri Fedetov, Russian Special Envoy to the United Nations called the alleged flights "a cause for concern." Id.

[9] Id.

[10] Id. On January 17, 1995, NATO resumed close air support ("CAS") training over Bosnia. INR Viewpoint, Jan. 21, 1995, at 2. These training missions were not publicized widely and it is likely that ground UNPROFOR were not informed about them in advance.

[11] NATO Says Investigation Finds No Evidence of Arms Drops, Associated Press, Mar. 1, 1995.

[12] Id.

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The NATO Investigation.

According to the report prepared by the NATO investigative team, beginning at approximately 5:45 p.m. on February 10, UNPROFOR personnel located in Sector Northeast reported the sighting of a transport type aircraft with two fighter escorts.[13] According to the Air Operations Coordination Center ("AOCC") in Sarajevo, these planes were seen landing at the Tuzla West airstrip.[14] Approximately one hour later, U.N. monitors also began receiving reports of fixed wing activity around Tuzla.[15] In all, four reports of fixed wing activity were lodged on February 10, 1995.[16] The second report occurred in the early evening of Sunday, February 12, 1995. UNPROFOR personnel began reporting "jet noise" over Tuzla. Reports of fixed wing aircraft filtered into NATO and United Nations monitoring centers for nearly an hour. While attempting to ascertain if a plane had landed at that Tuzla West airstrip, a team of Nordic

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[13] Col. Timothy Jones, Final Report of Possible Fixed Wing Flight Activity at Tuzla, 10 and 12 Feb. 1995, NATO/UNPROFOR Investigative Team (hereinafter "Tuzla Final Report").

[14] Id.

[15] Press reports of the flights indicated that they took place at the "Tuzla airport." This is actually a misnomer for a collection of four airstrips located within the Tuzla area. A description of each of these air strips is helpful in understanding the unlikelihood that arms deliveries by C-130 type aircraft would have taken place within the area. "Tuzla main," an asphalt runway of nearly 7,000 feet, was under the control of UNPROFOR Northeast forces during 1995. This would have been the only available runway for the C-130s to use. The "Tuzla Highway Strip," located approximately six kilometers east of Tuzla Main, generally was unobserved by UNPROFOR although it was considered usable, but was not of the appropriate length for use by C-130s. "Tuzla East" lay another kilometer east of Tuzla Highway. Tuzla East was a grass strip that was unusable at the time these alleged flights occurred. The final airstrip in this collection was designated "Tuzla West." Tuzla West, located four kilometers southwest of Tuzla Main, was covered with piles of dirt rendering it unusable. Tuzla Final Report.

[16] Id.

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UNPROFOR troops was surrounded by Bosnian forces and prohibited from examining the airstrip.[17]

The Select Subcommittee reviewed documentation provided by the Department of Defense, including the final report issued by the NATO investigative team, and interviewed numerous individuals with knowledge of the rumours and investigations of them. The Minority concludes that no credible evidence exists to substantiate the claim that the United States delivered arms to the Bosnian Muslims via cargo flights on February 10 or 12, 1995.[18]

Attempts by United States and Other Officials to Investigate Flights.

The [redacted] also was aware of the alleged Tuzla flights.[19] Around the time that the flights occurred, the [redacted] received a great deal of cable traffic and reporting on the incidents from military and regular intelligence channels.[20] Despite the lack of physical evidence that such flights had occurred, and the absolute lack of United States involvement in the

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[17] Tuzla Final Report.

[18] United Nations peacekeepers reported activity in the Tuzla vicinity again on February 17, 1995. This activity included reports of five Bosnian government helicopters landing and taking off from Tuzla airport. This activity was not part of the NATO investigation because that investigation concerned allegations of fixed wing aircraft activity only. The Select Subcommittee has determined, based on interviews and review of available material, that these flights were not part of any United States covert action plan to supply arms to the Bosnian Muslims.

[19] [redacted] Subcommittee Dep. at 54. [redacted]

[20] The [redacted] testified that general rumors about United States covert activity repeated throughout the intelligence channels were covered "ad nauseam" within the press. [redacted] at 54-56. The Tuzla flights were afforded particular attention in intelligence channels and the media. [redacted]

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matter, the alleged flights were taken seriously because if such an action had been conducted by the United States, it would have caused significant friction within the allies.[21] Assuming that any such flight would have had to fly over Croatian air space, the [redacted] undertook his own investigation of the flights.[22] The [redacted] could not prove that the flights had taken place. His investigation led him to believe that if any flights other than those sanctioned by and known to the United Nations and NATO had occurred, they were likely of Iranian or Turkish origin.[23] He found no evidence indicating the United States had any role in the flights.[24]

[redacted]

[25] [redacted]

[26] [redacted]

[27] [redacted]

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[21] See [redacted] Subcommittee Dep. at 55 (noting that the flight allegations were causing friction within NATO). [redacted]

[22] [redacted]

[23] [redacted] Subcommittee Dep. at 55. [redacted]

[24] [redacted]

[25] Herrick Subcommittee Dep. at 64. [redacted] Herrick SSCI Dep. at 27-28. [redacted]

[26] Id.

[27] Id.

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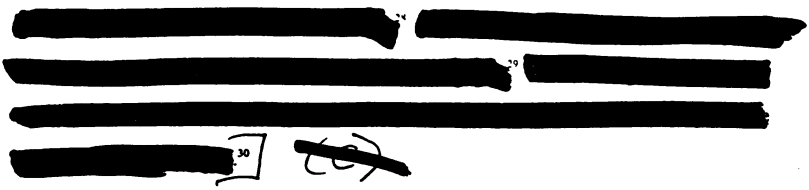

General Wesley Clark knew of the alleged Tuzla flights although he had no official responsibility for investigating them.[31] Because of his position, General Clark was in contact with UNPROFOR regularly. UNPROFOR commanders explained to him that they had no evidence to suggest that a C-130 had landed at Tuzla nor did they have anything suggesting United States participation in a covert operation to arm the Bosnians.[32] After the alleged flights in February 1995, General Clark heard of no more phantom flights to Tuzla.[33]

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[28] Id. at 64-65.

[29] Id. at 65.

[30] Herrick Subcommittee Dep. at 66.

[31] Clark Subcommittee Dep. at 61.

[32] Id. at 62. According to General Clark, UNPROFOR was so perplexed by the mystery flights, they placed a tank fitted with a thermal site at the end of the runway to detect any possible flights. Id. UNPROFOR did not detect any flights.

[33] Id.

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Chapter Two
Section Seven

THE [redacted] MISSILE INCIDENT

The incident that appears to have attracted the most concern involves a shipment of [redacted] missiles from Iran that was stopped in Croatia. The Croatian authorities asked the United States Government to inspect the missiles for chemical warheads. The Defense Attache at Embassy Zagreb, accompanied by two different intelligence officers, inspected the missiles on two separate occasions. The officials concluded that the missiles did not contain chemical warheads. No credible evidence to indicate any other United States involvement in the missile shipment was determined. The Majority alleges that Ambassador Galbraith was involved in pressuring the Croats to release the missiles to the Bosnians. The sources for the allegation are two Croat officials whose credibility and veracity have been challenged in a general way by a number of other Americans, and whose account of this event is inconsistent with the account of all other United States officials involved with the missile inspection. [redacted]

In a May 21, 1996 article, The Los Angeles Times reported that in September 1995 the United States was involved in the inspection of a shipment of missiles destined for Bosnia from Iran.[1] The article alleged that United States officials had gone beyond passive acknowledgment of the arms pipeline to a direct role in facilitating the arms flow.[2] The article claimed that the CIA and the military, after overcoming their alarm at the weapon's potential, permitted them to

[1] James Risen and Doyle McManus, Terrorist Risk to Americans in Croatia is Linked to Iran, Los Angeles Times, May 21, 1996, at A1 (hereinafter "LA Times Article").

[2] Id.

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be released to the Bosnians under the direction of Ambassador Galbraith.[3]

The Select Subcommittee undertook a detailed investigation of these allegations. Staff reviewed official reports and documents generated about the shipment, including the cable traffic of both the Defense Attache and the [redacted] in Zagreb; interviewed numerous witnesses with first hand knowledge of the events; and reviewed media accounts and Congressional hearing testimony.

The Minority concludes, in direct contradiction to the findings of the Majority, that the inspection of the missiles by United States military and intelligence personnel was conducted for the sole purpose of determining whether the missiles were armed with chemical warheads. The Minority also concludes that the inspection was consistent with the terms and conditions of the Nunn-Mitchell amendment. The Minority concludes further that the inspection was appropriate for this limited purpose in order to protect United States civilian and military personnel from the risks of introducing chemical weapons into the region.

The Minority found no credible or substantive evidence that Ambassador Galbraith, the [redacted] or any other United States government official facilitated or encouraged the release of these missiles and does not agree with the Majority's decision that referral to the House Permanent Select Committee on Intelligence for further investigation of this matter is warranted. The inspection did not amount to covert activity. As discussed supra Section Five of Chapter One, the inspection of the missiles by the Defense Attache and subsequently by a missile expert did not amount to "an activity . . . to influence political, economic, or military conditions,"

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[3] Id.

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rather it was a technical support function to assist Bosnia that falls well within the exception to covert activity for "traditional military activities or routine support. . . ."

And, although the Minority wholly disagrees with the Majority conclusion that Ambassador Galbraith did pressure the Croatians to release the missile, even if he did, such action falls outside the scope of covert action. "[A] request by the United States government to third parties [does not] constitute covert action as defined by the Act."[4] To argue that any action taken by Ambassador Galbraith neither is supported by the facts nor does it comport with the law.

Media Reports of the Missile Inspection and Informal Investigation by the Intelligence Oversight Board.

According to the Los Angeles Times article, the Croatians seized the missiles in September 1995 and held them in Pula.[5] The article reported that Croatian Defense Minister Gojko Susak was concerned that the missiles contained chemical warheads and, if so, represented a sharp escalation in the types of weapons being shipped.[6] The article reported that American officials reacted with alarm to Susak's news, and an immediate investigation by Central Intelligence Agency and United States Army personnel was undertaken.[7] The missiles

[4] Statement by President George Bush upon Signing H.R. 1455, Weekly Comp. Pres. Doc. 1137 (Aug. 19, 1991), reprinted in 1991 U.S.C.C.A.N. 257.

[5] LA Times Article.

[6] Id.

[7] Id.

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were released to Bosnia at the behest of certain United States officials including Ambassador Galbraith after the investigation determined that the missiles contained no chemical or biological agents.[8]

The Intelligence Oversight Board ("IOB"), which had concluded in May 1995 that no United States covert activity to arm the Bosnian Muslims had occurred in 1994, initiated an informal review of the "missile allegation" as a supplement to its report.[9] Based on interviews with key United States individuals, the IOB determined that no evidence existed to suggest that Ambassador Galbraith, the [redacted] or any other United States official pressured the Croatians to release the missiles.[10]

Intelligence during the Spring and Summer 1995.

Following enactment of the Nunn-Mitchell amendment in November 1994, and throughout 1995, [redacted][11]

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[8] Id.

[9] Select Subcommittee Interview of Anthony Harrington, July 25, 1996 (hereinafter "Harrington Subcommittee Int.").

[10] Id. Because interviews with the United States officials clearly indicated that no covert action had taken place, the IOB did not interview Croatian officials. Id.

[11] Senate Select Committee on Intelligence Deposition of [redacted] May, 31, 1996, at 50 (hereinafter "Schindler SSCI Dep."). [redacted] was director of the Interagency Balkan Task Force ("IBTF") of the Central Intelligence Agency. [redacted] The IBTF provided intelligence summaries for the National Intelligence Dailies which were circulated throughout Congress and

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[redacted]

[redacted]

[redacted]

[redacted]

Initial Shipments of [redacted] Missiles. [redacted]

[redacted]

[redacted] July 28, 1995. [redacted]

[redacted]

[redacted] SSCI Dep. at 55; [redacted] July 28, 1995. [redacted]

[redacted] Subcommittee Dep. July 28, 1995. [redacted] missiles have a range of approximately 100 kilometers. The missile warhead is generally high explosive that detonates upon impact. Sadler Subcommittee Dep. at 43. The Iranians initiated sale of the [redacted] to the foreign public in 1993. Jane's Intelligence Review, June 1, 1995. [redacted]

[redacted]

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[redacted]

The Third Shipment and United States Involvement.

[redacted] The Bosnians may have been concerned that if they did not inform the Croatians directly about the shipments, and they learned of them subsequently, the Croatians would use the shipments as an excuse to curtail the pipeline.[23] Of course, the Croatians would insist on their cut if they were informed of the

[redacted] Aug. 30, 1995; [redacted] Galbraith Subcommittee Dep. at 77. [redacted]

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contents. Although the United States was aware that the missiles were being shipped, the Nunn-Mitchell restrictions prohibited the sharing of intelligence regarding the missiles. As events unfolded, however, the Croatians gained independent knowledge that Iran was shipping missiles to Bosnia.

On August 29, 1995, an Iranian air force cargo plane was forced to land at Split, Croatia when bad weather prevented it from entering Bosnian territory. The Croatians then diverted the plane to Pula, Croatia. The Croatian government seized the plane at Pula, examined the contents and determined that it contained missiles. The Croatians expressed concern that the missiles contained chemical warheads. [redacted] It is more likely, however, that [redacted] initial anger was directed at the Bosnian and Iranian efforts to keep the shipments secret to avoid paying Croatia its one-third cut. In fact, the concern over chemical weapons may have been a sham. The Defense Attache testified before the Select Subcommittee that when he inspected the missiles at the airport, he discovered that the crates had never been opened.[30]

Assistant Secretary Holbrooke and General Clark Are Approached About the Missiles.

The Majority grossly mischaracterizes and attempts to downplay the involvement of any

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[29] Select Subcommittee Deposition of [redacted] Aug. 9, 1996, at 102-03 (hereinafter [redacted] Subcommittee Dep."). [redacted]

[30] Select Subcommittee Deposition of LtCol. John Sadler, Aug. 21, 1996, at 14 (hereinafter "Sadler Subcommittee Dep.").

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United States official in the [redacted] other than Ambassador Galbraith's alleged manipulation of the Croatians to release the seized missiles to the Bosnians. The Majority misrepresents the facts and relies on innuendo and circumstantial statements from less than credible Croatian sources. The Majority relies, therefore, on less than credible reports by a [redacted] who neither agreed with the United States policy nor the actions of his Ambassador, to promote a suggestion that Ambassador Galbraith in some way committed a breach of covert law is specious.

In August 1995, Richard Holbrooke, who had been serving as Assistant Secretary for European and Canadian Affairs since September 1994, began an intensive five month mission to bring peace to the region. Traveling with him throughout Europe and the Balkans was General Wesley Clark, Director of Strategic Planning and Policy for the Department of Defense.[31] Assistant Secretary Holbrooke and General Clark were accompanied on this mission by representatives of the NSC, Department of Defense and Department of State.

During one of many meetings with Croatian President Franjo Tudjman they attended in August 1995,[32] Defense Minister Gojko Susak approached Assistant Secretary Holbrooke and expressed concern about the seized shipment.[33] The Croatians claimed that the shipment would be a violation of the rules of war and international law if it contained some sort of chemical

[31] General Clark had been touring the Contact Group and other allied countries with National Security Advisor Anthony Lake prior to meeting Assistant Secretary Holbrooke in London for the second leg of their shuttle diplomacy. Select Subcommittee Deposition of General Wesley Clark, Sept. 4, 1996, at 4748 (hereinafter "Clark Subcommittee Dep."). In addition to the Contact Group countries, Lake and Clark traveled to Spain, Italy, and Turkey. Id.

[32] This meeting likely took place at the presidential palace in Zagreb, Croatia. Id. at 51.

[33] Senate Select Committee on Intelligence Deposition of Richard Holbrooke, May 21, 1996, at 80 (hereinafter "Holbrooke SSCI Dep.").

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warhead.[34] Defense Minister Susak requested assistance from the United States in determining what type of warhead was contained in the missiles.[35]

Assistant Secretary Holbrooke turned to General Clark and asked him to look into the matter.[36] General Clark attempted to contact the European Command ("EUCOM") headquarters, but was unsuccessful.[37] Next, General Clark contacted the Defense Attache at United States Embassy Zagreb. Lieutenant Colonel John Sadler, the new Defense Attache at Embassy Zagreb, informed General Clark that embassy officials already were aware of the shipment and had dispatched a joint military and intelligence team to investigate.[38] General Clark subsequently reached General Keller, EUCOM commander, and informed him of the situation.[39] General Keller promised Clark that he would "make sure it was worked on."[40] Neither Assistant Secretary Holbrooke nor General Clark had anything more to do with the missile shipment after

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[34] Holbrooke SSCI Dep. at 80, 84.

[35] Id. at 80.

[36] Id. at 80, 84; Clark Subcommittee Dep. at 50.

[37] Senate Select Committee on Intelligence Deposition of General Wesley Clark, June 24, 1996, at 26-27; see also, Holbrooke SSCI Dep. at 84 (Clark . . . called the European Command headquarters in Stuttgart).

[38] Clark Subcommittee Dep. at 51. As discussed below, LtCol Sadler was involved in the inspection of the missiles, however, he does not recall receiving the phone call from General Clark. Sadler Subcommittee Dep. at 20.

[39] Clark SSCI Dep. at 27. Clark had no record of the telephone call and was unsure whether he reached General Keller that evening or the following morning. Id.

[40] Id.

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these initial exchanges.[41]

The Croatian request for United States assistance with inspecting the missiles did not come as a surprise to General Clark[42] or Assistant Secretary Holbrooke. Defense Minister Susak knew that EUCOM possessed the technical expertise in this area that the Croatians lacked.[43] According to Assistant Secretary Holbrooke, the United States routinely will oblige such requests as a matter of courtesy given the proficiency of the United States Army in the area.[44]

Assistant Secretary Holbrooke did not discuss the decision to proceed with the inspection with officials from the Department of State or other executive branch agencies in Washington.[45] Assistant Secretary Holbrooke decided that if chemical warheads were a possibility, "it was an immediate issue to be looked into"[46] given the Croatian concern expressed by Defense Minister Susak.[47] The missiles, however, were not a primary focus for either General Clark or Assistant

[41] Holbrooke SSCI Dep. at 84; Clark Subcommittee Dep. at 53; Clark SSCI Dep. at 27.

[42] Clark Subcommittee Dep. at 55.

[43] Holbrooke SSCI Dep. at 95.

[44] Id. Another example of technical assistance provided by the United States involved the cleanup of unexploded ordnance from an ammunition dump explosion outside Zagreb discussed supra, Chapter Two, Section One.

[45] Holbrooke SSCI Dep. at 84.

[46] Id.

[47] Id. at 93. It is important to note that although the Croatians expressed concern over the possibility of chemical weapons on board the aircraft, Defense Minister Susak waited until after the negotiations had concluded for the day to raise the issue with Assistant Secretary Holbrooke. Id. at 92-93.

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Secretary Holbrooke[48] who were in the midst of intense shuttle diplomacy involving trips to three to four countries per day.[49] The missile issue, while important, was not "fundamental" to the mission that the two men were attempting to accomplish in the region.[50] Neither General Clark nor Assistant Secretary Holbrooke was asked to convey the results of the inspection to the Croatians,[51] nor were they asked to facilitate the release of the missiles once they had been inspected.[52] Neither General Clark nor Assistant Secretary Holbrooke pursued the missile incident in any formal way after this initial involvement.[53]

Defense Minister Susak Requests Assistance from Ambassador Galbraith.

In addition to informing Assistant Secretary Holbrooke and General Clark of the missile shipment, Defense Minister Susak specifically asked Ambassador Galbraith to send someone down to Pula to inspect the shipment.[54] Susak told Ambassador Galbraith that he believed the

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[48] Clark Subcommittee Dep. at 56; Holbrooke SSCI Dep. at 86.

[49] Id.

[50] Clark Subcommittee Dep. at 58-59; Holbrooke SSCI Dep. at 87, 88.

[51] Clark Subcommittee Dep. at 53.

[52] Clark SSCI Dep. at 28.

[53] Holbrooke SSCI Dep. at 87; Clark Subcommittee Dep. at 53. In a later trip to Croatia, General Clark asked the Defense Attache what had happened to the missiles and was told that they had been found non-chemical and sent on apparently to Bosnia. Clark SSCI Dep. at 27; Clark Subcommittee Dep. at 52.

[54] Galbraith Subcommittee Dep. at 74.

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cargo was suspicious which is why he wanted United States experts to examine it.[55] Ambassador Galbraith met with his Defense Attache and agreed that the Defense Attache should travel to Pula to examine the weapons.[56] The Ambassador did not "order" the Defense Attache to Pula, the decision was made mutually.[57]

The Majority posits that because the Ambassador also knew of the missile shipment, he therefore was instrumental in its release and in direct contradiction to the testimony of General Clark and Assistant Secretary Holbrooke.[58] The simple fact is that Susak treated the missiles the same way as he had the unexploded ordnance from his ammunitions dump; he requested the assistance of the United States and he did so with a variety of sources. The fact that both the Ambassador and General Clark undertook to assist the Croatians with this matter does not lend any more credence to the notion that Ambassador Galbraith did something illegal or even suspect. It simply means multiple people were working on the same issue.

Furthermore, there is no discrepancy in the testimony. Both Ambassador Galbraith and Assistant Secretary Holbrooke recall Susak discussing the matter with each of them at the end of a meeting at the Presidential palace.[59] In fact, the only person whose testimony on the matter

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[55] Id. at 75; Galbraith HPSCI Dep. at 22.

[56] Galbraith HPSCI Dep. at 22; Sadler Subcommittee Dep. at 12.

[57] Galbraith Subcommittee Dep. at 74. The [redacted] testified that he was present at this discussion but neither the Ambassador nor the Defense Attache recall him being there. Id.; Sadler Subcommittee Dep. at 12.

[58] See Majority Final Report at 139 (noting that "the testimony of the U.S. officials involved is in conflict.").

[59] Galbraith Subcommittee Dep. at 73.

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directly conflicts with anyone else involved in the matter is that of the [redacted].[59] Unlike the Majority, however, the Minority does not take issue with the differing recollection of witnesses almost a year after the events occurred.

The Initial Missile Inspection by the Defense Attache.

The Defense Attache made arrangements to travel with a Croatian defense official to Pula.[61] The airplane to be inspected was in a secure section of the airport and appeared to be guarded.[62] The Defense Attache and his assistant [redacted] examined the exterior of the cargo, and discovered the missiles on board.[64] The Defense Attache was not familiar with the missile type and could not determine with certainty if there were chemical weapons.[65] The Defense Attache and his assistant [redacted] made annotations of what they found to forward for analysis.[66] The

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[60] The [redacted] recollects that Susak talked directly with the Defense Attache during a meeting he attended with Assistant Secretary Holbrooke and that conversation was then relayed to the Ambassador. [redacted] Subcommittee Dep. at 100.

[61] Sadler Subcommittee Dep. at 12.

[62] Id. at 13.

[63] Id.

[64] Sadler Subcommittee Dep. at 14. The Defense Attache and his assistant counted the components of three missiles on board the aircraft. Id. at 15. The missiles were broken down into components and packaged in a total of nine containers with virtually no room to maneuver within the cargo hold. Id. at 49.

[65] Id.

[66] Id.

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two did not share the results of the inspection with any of the Croatians present.[67]

The Defense Attache orally reported his findings to Defense Department officials in Washington and explained that he had been unable to identify the type of missile.[68] The Defense Attache also informed Ambassador Galbraith and the [redacted] of the results of the inspection.[69] The [redacted] kept abreast of the developments by staying in touch with the Ambassador and the Defense Attache.[70]

The Second Inspection at the [redacted] Request.

The United States could not determine whether the missile warheads were chemical based on the information gathered during the first inspection.[71] The [redacted] asked the Defense Attache if he would return to Pula with a missile expert from the [redacted] to re-inspect the missiles.[72] The Defense Attache agreed to return if Ambassador Galbraith and the Croatians approved.[73] The interest of the [redacted] had more to do with taking advantage of an intelligence gathering opportunity than fulfilling the Croatian request.[74] The [redacted] wanted to

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[67] Id. at 15.

[68] Id. at 16.

[69] Id. at 17.

[70] [redacted] Subcommittee Dep. at 100-02.

[71] [redacted] at 101; Sadler Subcommittee Dep. at 18.

[72] Sadler Subcommittee Dep. at 18.

[73] Id.

[74] [redacted] Subcommittee Dep. at 101.

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exploit the opportunity to gain intelligence on Iran's weapons technology.[75] [redacted]

Six days after the initial inspection, the Defense Attache escorted an intelligence missile expert back to Pula.[76] The cargo had not been moved, and the Defense Attache repeated the same inspection techniques with the missile expert that were performed on his first trip.[77] Upon returning to the Embassy,[78] the missile expert informed the [redacted][79] that although the type of weapon was as yet undetermined, nothing indicated chemical or biological warheads.[80] Two days later intelligence analysts informed the Embassy that the missile warheads were not chemical in nature.[81] [redacted][82] [redacted]

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[75] Id.

[76] Sadler Subcommittee Dep. at 19.

[77] Id. at 21.

[78] Id. at 22.

[79] Sadler Subcommittee Dep. at 22.

[80] [redacted]

[81] Id. The missile expert reported both orally and with written reports to the embassy. Id. Intelligence analysts informed the Select Subcommittee that the [redacted] missiles cannot be fitted with chemical warheads. Iranian Analysts Briefing, Sept. 11, 1996, at 4. [redacted]

[82] Galbraith HPSCI Dep. at 22; [redacted] Dep. at 105. The [redacted] explained to the Select Subcommittee that the intelligence community routinely utilizes such opportunities to acquire new technology. [redacted] Dep. at 105. [redacted]

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[redacted]

At no time did Assistant Secretary Holbrooke, General Clark, Ambassador Galbraith, or any other American do more than authorize an inspection of the missiles to determine whether they possessed chemical warheads. Initially, the United States was concerned only with the possible introduction of chemical weapons into the region, although the [redacted] became interested in purchasing a missile for subsequent analysis. In fact, the United States was prohibited from responding to a Croatian request to detain the missiles, because to do so would have violated the Nunn-Mitchell amendment. [redacted]

The Croatians Arrange to Release the Missiles.

Western intelligence indicates that officials within the Croatian government debated for several days about allowing the shipment to proceed to Bosnia. During this time, Bosnian officials repeatedly sought the release of the missiles by the Croatians.[redacted] In early September 1995, Susak met with the Defense Attache on an unrelated matter. [redacted]

[redacted] Dep. at 106.

[redacted]

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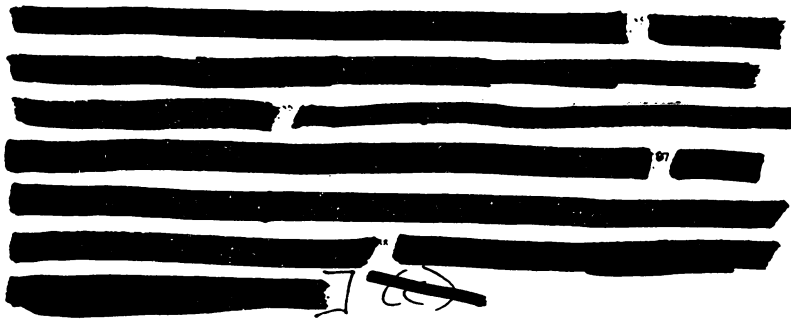

The Majority's Final Report attributes the release of the missiles to the Defense Attache's response to Susak: "Sadler . . . then said he could not comment on that. Susak got the message, and the missiles were sent along to the Bosnia Muslims."[85] This is simply not the case. The Defense Attache's response[90] accurately represented United States policy to refrain from taking any position on arms shipments from third countries. Of course, the Nunn-Mitchell amendment prohibited the Defense Attache from any action that would impede the release of the missiles.

Ultimately, the decision to release the missiles was made solely by the Croatian

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[85] Sadler Subcommittee Dep. at 27.

[86] Id.

[87] Id. at 50.

[88] Id.

[89] Majority Report at 140.

[90] Sadler Subcommittee Dep. at 27.

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government.[91] [redacted][92] [redacted][93] At a dinner with Ambassador Galbraith in 1996, the Defense Minister explained to the Ambassador that he had released the missiles but had kept one for Croatia[94] which would have been in keeping with Croatia's demand for a share of all weapons transiting the country. The Defense Minister explained that the missiles had been released because it marked the end of the arms shipments for Bosnia,[95] and the release had been negotiated at a summit between the two presidents.[96] Not once did the Defense Minister suggest that he had been pressured to release the missiles by the United States government. [redacted]

There Is No Evidence to Suggest that Ambassador Galbraith Influenced the Release of the Missiles.

Neither the intelligence nor the testimony received by the Subcommittee suggest a credible basis for the Majority's assertions that Ambassador Galbraith or any other United States

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[91] Id. at 27; 50.

[92] According to the [redacted] the missiles were released on September 13, 1995. [redacted] Subcommittee Dep. at 104. [redacted]

[93] [redacted] Subcommittee Dep. at 105. Such action by the Croatians would be in keeping with their demand of one-third of all weapons deliveries through their territory, although the Croatians would not be able to use the weapon as intelligence does not indicate they have launch capability. [redacted]

[94] Galbraith Subcommittee Dep. at 158.

[95] Id.

[96] Id.

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official exerted pressure on the Croatians to release these missiles. The only two references to United States pressure were made to the [redacted] by members of the Croatian government. In mid-September 1995 [redacted] the decision to release the missiles had been coordinated with "you guys" - implying United States government officials.[97] The [redacted] had not been involved. [redacted] that it was other "USG officials."[98] Months after the missiles were released to Bosnia, [redacted] claimed that Ambassador Galbraith had forced the release of the missiles.[99]

The credibility of [redacted] on this matter is suspect. First, the allegations of involvement by Ambassador Galbraith or any other American are inconsistent with the recollection of each American involved in the incident, including the [redacted] Second, [redacted] the Defense Attache or the Ambassador.[100] Third, [redacted] did not register his claim until several months after the incident.[101]

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[97] [redacted] Subcommittee Dep. at 104. [redacted]

[98] [redacted]

[99] [redacted]

[100] [redacted] Subcommittee Dep. At 104. [redacted] Id. Galbraith at 189-88.

[101] The [redacted]

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Ambassador Galbraith has testified under oath that he had no role in the release of the missiles.[102] In sum, the Majority's allegations that intelligence indicates Ambassador Galbraith was instrumental in releasing the missiles rest solely on unsupported accusations and not corroborated intelligence information. There is nothing but innuendo to suggest that Ambassador Galbraith facilitated the release of the missiles and the Minority chooses to base its conclusions on facts rather than innuendo.

The Lack of Impact Made by the [redacted]

The [redacted] missiles did not change the strategic balance within Bosnia. [redacted][103] At best, the [redacted] provided a morale boost to the Bosnian Muslims and a signal to the Croatians that it would be against their interest to abandon the Federation. [redacted][104]

[redacted]

[102] Galbraith Select Subcommittee Dep. At 187-88; Galbraith HPSCI Dep. at 22.

[103] Select Subcommittee Iranian briefing at 4.

[104] Id.

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The Minority concludes that the United States involvement in this matter violated no international or United States law. The assistance provided in response to the Croatian request in determining the type of missile on board the cargo plane was appropriate and should have been made available to a United States ally with a similar question. The Minority also found no credible evidence to suggest that Ambassador Galbraith or any other United States official, encouraged or facilitated the release of these missiles. In fact, had the United States attempted to block the missile shipment, the Nunn-Mitchell amendment likely would have been violated.

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Chapter Two
Section Eight

THE FALL 1994 INITIATIVE

During the summer of 1994, the United States undertook an analysis of a possible covert action to arm the Bosnian Muslims. This option was rejected, however, because the United States determined it impossible to sustain such an activity for any extended period of time. In the fall of 1994, the United States also considered whether third countries should be encouraged to transship arms through Croatia to Bosnia. The "third country option" was initiated, in part, to respond to a proposal made by the Bosnian government to suspend its demands for lifting the embargo in return for an increase in arms shipments. This proposal also was rejected due to the risk that the allies would discover the arrangement and accuse the United States of a breach of the arms embargo.

During the fall of 1994, individuals within the CIA nevertheless became suspicious that U.S. officials, including Ambassador Richard Holbrooke, the new Assistant Secretary of State for European Affairs, were involved in a covert program to provide arms to the Bosnian Muslims for which a Presidential finding as required by law had not been made. The [redacted] reported on a series of incidents during the summer and fall of 1994 that he thought suggested senior U.S. officials were involved in such activity. Individuals within the CIA's Operations and Intelligence Directorates independently developed and reported to CIA leadership their suspicions about the activities of U.S. officials with regard to arms deliveries to the Bosnian Muslims. These suspicions were based in part on reporting by the [redacted] of intelligence and in part on comments and rumors conveyed to him by the Deputy Chief of

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Mission at Embassy Zagreb (the "DCM").

In September and October 1994, various intelligence sources incorrectly reported that senior officials of the United States government were engaged in active negotiations with third countries to provide arms to the Bosnians. In reality, United States government officials were simply exploring options of whether and how the Bosnians might be armed. The exploration of options was, in part, a result of the pressure the Congress was putting on the Administration to lift the embargo.

Prime Minister Harris Siladzic and President Alia Izetbegovic, had approached Ambassador Holbrooke and other U.S. officials with a proposal that the United States encourage third country arms supplies to the Bosnian military.[1] In return, Bosnia would delay for six months its calls for a lifting of the arms embargo. The United States entertained but did not agree to the proposal. Ambassador Holbrooke acknowledges that he was approached by Bosnian Prime Minister Silajdzic regarding support for arms deliveries:

> . . . when Prime Minister Silajdzic approached us and asked if we would support his existing -- and I want to stress the word existing -- requests to countries for assistance to keep the government alive through the winter 94-95, I believed that the request deserved a favorable reply, provided it did not constitute a covert action . . . I played no role in developing a covert action plan or proposal, nor did anyone else in the United States government in the summer of 94.[2]

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[1] This was not the first time the Bosnians had approached U.S. officials with this proposition. In Sept. 1994, Siladzic and Izetbegovic had proposed the 6 month moratorium in exchange for U.S. covert arms or continued supplies from third countries to Special Envoy Charles Thomas. Department of State Cable, Vienna 8242, Sept. 19, 1994.

[2] *Hearing on U.S. Actions Regarding Iranian Arms Shipments into Bosnia before the Senate Select Committee on Intelligence*, 104th Cong. 35, May 21, 1996 (statement of Ambassador Richard Holbrooke).

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The intense level of activity undertaken by United States Government officials to determine whether third countries should be encouraged to transship arms, coupled with the incorrect understanding (of selected intelligence officials) about United States policy on the arms embargo, led to inaccurate intelligence reporting. The reporting caused unnecessary concern at CIA headquarters that the United States was planning and committing U.S. resources to an effort to ship arms to the Bosnian Muslims.

The suspicions were brought to the attention of James Woolsey, the Director of Central Intelligence (the "DCI" or "Director") who raised the issue with Anthony Lake, the National Security Advisor to the President. After a review of available information by the NSC staff, the NSC referred the matter to the White House Counsel who requested an investigation by the President's Intelligence Oversight Board (the "IOB"). The IOB found no evidence that U.S. officials were engaged in a covert action in Bosnia and no evidence that U.S. officials knowingly took any action to facilitate the transshipment of arms to Bosnia.[3]

Suspicions within the CIA.

The [redacted] had been reporting on the issue of arms flows to the Bosnians since April 1994. He was aware of the "no instructions" response that Ambassador Peter Galbraith had delivered to Croatian President Tudjman in April in response to Tudjman's question regarding United States views on Croatia allowing arms to transit Croatia to Bosnia.[4]

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[3] Select Subcommittee Interview of Anthony Harrington, July 25, 1996, at 1-7 (Hereinafter "Harrington Int.").

[4] See Section One, Chapter Two for a full discussion of the no instructions response.

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He remained confused about United States policy on enforcing the embargo, however, and harbored suspicions that the United States Ambassador's actions may not have reflected actual U.S. policy. [redacted]

Throughout the summer and fall, the [redacted] sought clarification from headquarters about United States policy with regard to the arms embargo, and he continued to bring to headquarters' attention incidents and reporting which he believed suggested that certain U.S. officials might be running a rogue arms supply operation. In addition to actual intelligence, the [redacted] based much of his reporting on information, gossip, and speculation by the DCM. [redacted]

On September 30, 1994, [redacted] the Chief of the [redacted] Balkans Task Force informed Deputy Director of Intelligence Doug MacEachin (the "DDI") about his concerns that U.S. officials might be involved in brokering arms transfers to the Bosnian Muslims. According to MacEachin, [redacted] showed him cables dated from the beginning of May 1994. MacEachin testified that he had been briefed on these cables in May, but he did not read them until September 30, at which time he believed "reading [them] sounds worse than it did [previously]."[5] [redacted]

In particular, [redacted] described intercepted conversations that appeared to refer to an arms shipment involving the United States.[6] MacEachin requested that [redacted] compose a

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[5] Select Subcommittee Deposition of Doug MacEachin, Sept. 6, 1994, at 29. (hereinafter "MacEachin Subcommittee Dep.")

[6] Id. [redacted]

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memo on his concerns so that MacEachin could forward it to Director Woolsey.[7] testified that he wrote a memo on October 3, and on October 5, revised the memo at MacEachin's request to include additional information from the Directorate of Operations.[8]

MacEachin, in turn, forwarded the revised October 5 memo to the DCI. MacEachin testified that he was particularly concerned about memo because the information had come from a variety of sources:

[redacted]

There is no indication that during this chain of events any input was sought or obtained from the General Counsel's office. The DDI recalls that at this time he, like others at CIA, were highly distracted by the Ames affair; it was all he could do to move the short memo along.

Concerns.

outlined the following six concerns in his memo for the DCI:[10]

1. On September 2, briefed Ambassador Richard Holbrooke, Assistant

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at 29-30

[8] Senate Select Committee on Intelligence Interview of May 31, 1996 (hereinafter "SSCI Int."). memo contains information based on his own conversations as well as information culled from cables sent by the and by the

[9] MacEachin Subcommittee Dep. at 94. MacEachin learned of the cables in May prior to accompanying the DCI to a meeting with the Secretary of State during which they were discussed in part.

[10] U.S. Central Intelligence Agency Memorandum by Oct. 5, 1994.

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Secretary of State for European Affairs designate, regarding Bosnia. According to [redacted] Holbrooke was interested in the number of shipments reaching Bosnia. As a matter of practice, the CIA briefs all incoming Assistant Secretaries of State, and the [redacted] briefing of Ambassador Holbrooke was routine. MacEachin notes that [redacted] expressed no concern about Holbrooke or the conversation contemporaneous with the September 2 briefing. Only in hindsight did [redacted] consider his conversation worthy of reporting.[11] [redacted]

When Director Woolsey read the memo, he had a considerable basis of knowledge that his subordinates lacked. The DCI recalled that Richard Holbrooke, whom he had known for fifteen or twenty years, was

> not only . . . showing up as Assistant Secretary [in September], but [he] was traveling to the region and talking to people, as was entirely appropriate, about this issue . . . Generally speaking, it seemed to me that he was being his typically very active self in getting around Europe and talking to allies and talking to the Bosnians about, what can we do to help? How can we change things? How we can affect things?[12]

In other words, the DCI was not alarmed by reports that Holbrooke was interested in

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[11] MacEachin Subcommittee Dep. at 99.

[12] Select Subcommittee Deposition of James Woolsey, Sept. 13, 1996, at 45, 47 (hereinafter "Woolsey Subcommittee Dep.").

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details on shipments reaching Bosnia.

2. The [redacted] at Embassy Zagreb reported in a September 26 cable that Ambassador Holbrooke supported a continued flow of arms and that Bosnian President Izetbegovic had begun to talk of a six month delay in lifting the arms embargo in exchange for the delivery of weapons from East German stocks. The [redacted] also had reported that the Deputy Chief of Mission said that the proposed relocation of the Bosnian Embassy from Vienna to Split was designed in part to facilitate the flow of weapons to the Bosnians. [redacted]

Although the following information was not mentioned specifically in [redacted] memo, the September 26 cable also reported that the Deputy Chief of Mission told the [redacted] that Assistant Secretary Holbrooke indicated the French and British would look the other way. The DCM expressed his own doubt about the allied reaction and said that an initial installment of $50 million had been set aside by the U.S. Government for such a plan, for which Ambassador Galbraith was to act as a "focal point." According to the [redacted] the idea was pushed by Galbraith.[13] [redacted]

In fact, Assistant Secretary Holbrooke was advocating a plan in which the United States would endorse the shipment of arms to Bosnia by third countries [redacted]

[redacted]

[13] [redacted] Sept. 26, 1994 (hereinafter

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[redacted][14]

[redacted][15] The United States considered, but ultimately rejected the Bosnian government proposal -- although the Administration did not formally notify the Bosnian Government of its decision.[16] The Bosnian Government proposal, even if implemented, would not have constituted a covert action.[17]

3. [redacted]

[14] Department of State Cable, Vienna 8242, Sept. 19, 1994 (S).

[15] Select Subcommittee Deposition of Assistant Secretary Richard Holbrooke, Sept. 27, 1996, at 42 (hereinafter "Holbrooke Subcommittee Dep.").

[16] Id. at 44.

[17] The definitions of and situations that constitute covert action are discussed in Chapter One, Section Five. In brief, the covert action rules do not apply when the activity is financed or undertaken by a third country. Even if a U.S. official were to request that a third country take such action, it would not constitute a covert action.

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[redacted]

Both the third country option and the option of direct U.S. covert assistance were rejected. However, DCI Woolsey testified "although there clearly was some discussion of possibilities of military assistance in which [the Chief of the Balkan Task Force] and [the DDI] called to my attention early in October, it didn't strike me as anything more than exploring possibilities."[19] The DCI further explained why he took a benign view of the discussions by State Department personnel being brought to his attention:

> [A]s a general proposition, it, in my judgment, would not have violated and does not violate the law for an Assistant Secretary of State or an ambassador to say to a Croatian, or for that matter a German or a Brit or a Frenchman, 'Hey, should we think a covert action here to help the Bosnians?' That is the turf that I think -- at least that turf and quite possibly something rather more in the way of advocacy than that, that President Bush protected with the '91 veto.[20]

[redacted] SSCI Hearing, at 30-31.

[19] Woolsey Subcommittee Dep. at 47.

[20] Id. at 63.

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4. [redacted]

[redacted][21] [redacted]

5. [redacted]

[redacted] submitted a request for information about whether a covert U.S. program was underway. U.S. military commanders based in Naples with the Joint Task Force ("JTF") Provide Promise had been "picking things up" that suggested such activity might be occurring. [redacted]

Concerns about covert activity were based on unsubstantiated reports by personnel serving at the Naples facility. [redacted]

[21] [redacted]

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[redacted][22] The [redacted] advised headquarters that the colonel was preparing to brief Admiral Smith, the NATO Commander for Southern Europe (CINCSAEUR) on the issue. [redacted]

CIA headquarters was confident that the report was not true. In a reply cable on the same day, CIA headquarters labeled the report a "misconception." The cable noted that any covert action would require a finding, and that there was no such finding.[23] The DCI testified that he had attended this principals meeting which had occurred in mid-September. The President did not attend, and no such discussion occurred.[24]

6. [redacted]

[redacted][25] However, the United States had no role in the shipments. [redacted]

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[22] [redacted]

[23] [redacted]

[24] Woolsey Subcommittee Dep. at 48-49.

[25] [redacted]

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The CIA Leadership's Response.

[redacted] MacEachin, and others in DI knew of the April "no instructions" response and at the time had been anxious to ensure that the issue be brought to the attention of the DCI for clarification with National Security Adviser Lake and Secretary Christopher. [redacted]

The April events did not appear to be a concern of the Director of Intelligence when the new suspicions arose in the late summer/early fall. [redacted] for example, included no reference to the April events in his memo to MacEachin. MacEachin, for his part, testified that he thought the April exchange had been clarified on May 5 when the DCI and Talbott spoke and the matter had been resolved. MacEachin "walked away" from the May 5 meeting "thinking the issue was over."[26] MacEachin offered: [redacted]

> Now did we see arms shipments? Yes. But we had been seeing some shipments before this. Not a huge volume, but everybody was trying to sneak arms to every participant out there...the fact that it seemed to increase after that (May 5 meeting) was something that we watched, reported on routinely, measured, but I didn't associate that with this other discussion.[27]

[redacted] For example, according to two memos for the file [redacted]

[26] MacEachin Subcommittee Dep. at 24.

[27] Id.

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[redacted]

In addition to Admiral Studeman and Mr. McEachin, Under Secretary Tarnoff and representatives of the State Department's Bureau of Intelligence and Research attended these meetings.[30] In testimony, however, when asked if he was aware that in August and September "there were proposals very much on top of the table under discussion for whether there should be a covert action to provide arms," Mr. McEachin replied: "No, I was not." He testified that he did not attend any meetings on the subject, and that he did not recollect any proposals.[31] He continued: [redacted]

> Now, it's possible that a meeting or meetings were held to work up a proposal. Quite frankly, it was more common for the proposals to be brought to us, not for us to go to somebody and say, I'd like to jump into this mud pool..I say all of that by way of saying, if there had been such meetings, why the hell would I be there . . . If there were meetings . . . I wasn't at them.[32]

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[28] U.S. State Department Memo to the Files, from Thomas Fingar, August 26, 1994.

[29] U.S. State Department Memorandum to the Files, September 8, 1994.

[30] Id.

[31] MacEachin Subcommittee Dep. at 95.

[32] Id. Mr. MacEachin's sworn testimony contradicts the written record. Unlike the Majority, however, the Minority does not assume that contradictions among testimony or between testimony and the written record necessarily constitute false statements or require

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Accordingly, [redacted] concerns were hitting Mr. MacEachin cold. [redacted]

As discussed above, MacEachin forwarded [redacted] memo to DCI Woolsey. The DCI sought to defuse the concerns and suspicions harbored by some at the CIA. First, the DCI was aware of the context for some of the reports, namely that there was consideration at senior levels of the U.S. Government of possible options to get arms to the Bosnian Muslims. For various reasons, perhaps including protection of the "need to know"criteria, some CIA officials simply were not aware that the U.S. Government was exploring options with regard to the arms embargo. The DCI, however, testified that when [redacted]

> the extent of Holbrooke's travels and efforts came to the attention of the [Chief of the Balkan Task Force] in part through intelligence reports of what foreigners were saying about meetings and travel and so forth[,] and this was one of the things that the [Chief of the Balkan Task Force] raised with the [DDI] and then the [DDI] with me, which led to the October 5th meeting with Lake...It didn't strike me as anything more than exploring possibilities.[33]

Second, the DCI, himself a lawyer, had sufficient understanding of the distinction between diplomatic activity and covert action. He testified:

> Well, I mean, it was not covert action to research. It is not even covert action to talk, if you are a diplomat, to foreign governments about it. It is not even, according to the Bush veto -- protected by the Bush veto, it wouldn't even be covert action to urge covert action on a foreign government, if you were an American diplomat. It might get into covert action if you were concretely planning it and helping manage it.
>
> But none of this traffic or the material in [redacted] memo seemed to suggest the latter . . . By that time, in terms of not enforcing other barriers against other people, any other people sending weapons into Bosnia, that had been decided by the passage of Nunn-

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further investigation.

[33] Woolsey Subcommittee Dep. at 46-47.

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Mitchell... [redacted][34]

Director Woolsey also received legal advice from the CIA General Counsel, who had a part in drafting the Bush veto message of the FY 1991 Intelligence Authorization Act,[35] and therefore had extensive knowledge of the law as it related to covert action. The DCI was confident in the legal advice he was receiving. He did not expect, however, that the reports he was receiving should contain legal analysis. "I don't know whether they were [legally knowledgeable] or not; and in a way, it didn't matter . . . I wouldn't want my subordinates making fine-grain judgments about legalities in something like this and only giving me advice based on their own assessment of legal matters."[36]

Third, the DCI attempted to get to the bottom of the reports by discussing them directly with Assistant Secretary Holbrooke. The DCI testified: "I imagine what triggered my getting in touch with Dick [Holbrooke] was probably this report back from Galbraith essentially denying [the allegation]," and "more than likely, I called him on a secure phone and said, 'Hey, Dick, what's up? Galbraith said you had this meeting, and did covert action come up?"[37]

Bosnian officials had raised with Assistant Secretary Holbrooke and other U.S. officials a proposal that the United States encourage and support arms shipments by third countries to Bosnia. Bosnian officials may have been optimistic that the new Assistant Secretary would

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[34] Woolsey Subcommittee Dep. at 68-69.

[35] See Chapter One, Section Five for a discussion of covert action.

[36] Woolsey Subcommittee Dep. at 62.

[37] Woolsey Subcommittee Dep. at 59.

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entertain their proposal, and accordingly, their optimism and enthusiasm likely contributed to exaggerated and inaccurate reports that Assistant Secretary Holbrooke agreed to the proposal or was doing much more than he was in fact doing.

Finally, the DCI raised the issue with National Security Adviser Lake in an attempt to clarify the situation and to separate rumor from fact. Director Woolsey and Mr. Lake discussed, among other things, the report from the [redacted] that the President had approved a covert action at a late August principals meeting attended by the DCI. The DCI did not in fact attend that meeting, and Mr. Woolsey believed the only way to discredit the rumor was to check it out with Mr. Lake. Woolsey testified that if there was a "covert action that the CIA doesn't know about . . . he knew as well as I did . . . I had to report on it to the oversight committees."[38] Mr. Lake confirmed that no covert was action underway, but the Woolsey-Lake conversation set in motion further investigation of the activities of U.S. officials with regard to the arms embargo.

Members of the NSC staff reviewed documents made available to them by the CIA. Based on that review and the CIA's ongoing concerns, National Security Adviser Lake referred the matter to the White House where White House Counsel Abner Mikva reviewed the documents and referred the matter to the IOB.[39]

The Directorate of Operation's Concerns.

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[38] Woolsey Subcommittee Dep. at 68.

[39] See Chapter Two, Section Nine for a discussion of the IOB.

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The Directorate of Operations was preparing a list of its own concerns at the same time that [redacted] was drawing up his list. On September 13, 1994, [redacted] the branch chief, wrote a memo to her superiors expressing her concern that a violation of United States law may have occurred. The basis for her concern was the [redacted] cable traffic.[40] The branch chief harbored suspicions that wrongdoing might be occurring. The branch chief's memo also recommends that the General Counsel's office be asked to render a legal opinion on the matter.[41] There is no evidence to suggest that the General Counsel's office responded to her concerns, and the DCI testified that he did not recall being informed about either the reporting by the [redacted] or about the memo of the branch chief. After the [redacted] memo was referred to the NSC, the branch chief briefed the NSC on her suspicions. The reporting by the [redacted] was examined and, together with the branch chief's suspicions, formed the basis for much of the subsequent IOB and Congressional investigations.

Issues of concern to the branch chief and the [redacted] included:

1. According to the [redacted] on or about July 4, 1994, Ambassador Galbraith asked [redacted] the CIA [redacted] if $250 million would be enough to help the Bosnian Muslims. Ambassador Galbraith also asked if the Iranian arms deal was well known in Washington. The division chief told the Ambassador he was not aware of

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[40] [redacted] as Deputy Branch Chief and subsequently Branch Chief, routinely reviewed and responded to the [redacted] traffic.

[41] CIA Memorandum to [redacted] regarding Iranian Arms Shipments, Sept. 13, 1994.

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these issues.[42]

Ambassador Galbraith did indeed discuss the issue of arms shipments to the Bosnian Muslims with [redacted] as well as with the [redacted] Balkan Task Force.[43] Ambassador Galbraith testified that the discussion was "an informational inquiry on my part."[44] Ambassador Galbraith was not asking the CIA to prepare a program to get arms to the Muslims. He was simply drawing on the analysts' expertise to better inform himself about the Bosnians' military situation.

2. In an August 31, 1994 cable, the [redacted] reported that General Wesley Clark asked President Izetbegovic in late August 1994 whether an "Afghan solution" would be acceptable to the Bosnians.[45] General Clark did meet with President Izetbegovic and other Bosnian leaders during a late August orientation trip to Bosnia. The trip occurred in the wake of Congress' adoption of separate amendments requiring a unilateral lifting of the embargo. Much of General Clark's discussion focused on hypothetical discussions of lift and of alternatives to lift.[46] In response to Bosnian leaders' requests for United States assistance, General Clark offered his own opinion that clandestine support might be preferable to lifting the arms embargo.

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[42] [redacted] July 4, 1994

[43] Select Subcommittee Deposition of Ambassador Peter Galbraith, Aug. 19, 1996, at 83-84 (hereinafter "Galbraith Subcommittee Dep.").

[44] Id. at 84.

[45] [redacted] Aug. 31, 1994

[46] Select Subcommittee Deposition of General Wesley Clark, Sept. 4, 1996, at 13 (hereinafter "Clark Subcommittee Dep.").

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but stressed that he was "not empowered to make a decision."[47]

3. On September 7, 1994, the [redacted] reported that the Deputy Chief of Mission told him that Holbrooke is "driving a plan to arm the Bosnian Muslims," and that $50 million has been set aside for that purpose. The [redacted] also reported that the DCM informed him that Holbrooke said that covert arming of the Bosnians would get serious consideration in Washington, and that the plan would entail either having the United States military look the other way while third countries provided arms or "doing an Afghanistan."[48]

In fact, Holbrooke and other United States Government officials were discussing hypotheticals on how the Bosnians might be armed. DCM Neitzke testified that the $50 million referred to in the cable probably was the $50 million provided in the Biden amendment to get arms to the Bosnians in the event of a lifting of the arms embargo.[49] The DCM denies providing the [redacted] with many reports for which he is the alleged source, so it is possible that the remarks attributed to the DCM were not made.[50]

4. On September 28, 1994, the [redacted] reported that Ambassador Galbraith, preparing for a meeting with Assistant Secretary Holbrooke, asked the [redacted] for

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[47] Transcript of Meeting, General Clark Trip report, Aug. 26-27, 1994; From EUCOM/JTF LND, to LTG Wesley Clark and BG Edward Hanlon, USMC.

[48] [redacted] Sept. 7, 1994 [redacted]

[49] Select Subcommittee Deposition of Ronald Neitzke, Aug. 7, 1996, at 193 (hereinafter "Neitzke Subcommittee Dep.").

[50] Neitzke Subcommittee Dep., at 174, 175, 177, 178, 181, 184, 185, 192-193.

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information on Middle East funding for Bosnian arms.[51]

In fact reporting on arms to Bosnia was a "compelling" issue for the CIA.[52] Therefore, it would not be unusual for the Ambassador to ask the for information on a subject that the CIA had designated to be a priority. The request for information would coincide with the discussions occurring within the U.S. Government on the feasibility of supporting the efforts of third countries to supply arms to Bosnia. The question by the Ambassador and the reaction of the illustrates their relationship. Clearly, the Ambassador respected the expertise of the and relied on him for information on intelligence matters.[53] Nevertheless, the filed a report on the request. This reaction suggests an extraordinary degree of mistrust on the part of the and implies that no question, no matter how innocent, by the Ambassador was above the suspicion of the

5. On September 29, the reported (based that a U.S. Government official met with Defense Minister Susak and made a $200-300 million offer of arms. The report caused "quite a stir" at headquarters.[54] Ambassador Galbraith was shown the cable that the planned to send to headquarters on this issue, and acknowledged meeting with Defense Minister Susak and discussing several hypotheticals, but

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[51] Sept. 28, 1994.

[52] Subcommittee Dep. at 68.

[53] See Select Subcommittee Deposition of Janet Andres, Sept. 30, 1996, at 54-55 opining that if an ambassador discussed such a closed subject as covert action with his it was indicative of the ambassador's trust.

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none that involved the United States supplying arms. Ambassador Galbraith objected to the cable being sent because it did not reflect actual events. When the [redacted] replied that he was sending the cable regardless, Ambassador Galbraith appended a message to the September 30 cable saying that "at no time was such a deal discussed."[55] Upon reading the cable and the appended message, DCI Woolsey took the view that:

> when the [redacted] sent the report in, he appended the Ambassador's comment, which is the proper way to do it. And on that exchange, as I have said subsequently, I -- at headquarters, we believed the Ambassador, not the [allegation] . . . We did not disseminate this because we didn't think it was good intelligence based on what Galbraith said. In this case, we were told by one of the two American participants in the meeting that covert action had not come up and so [the allegation] wasn't true. So the [redacted] I think, quite appropriately appended the Ambassador's comment. Below my level, they looked at it back at Headquarters and they determined . . . it was not in fact true.[56]

Assistant Secretary Holbrooke also recalls discussing hypotheticals with Defense Minister Susak. Mr. Holbrooke further testified that he personally supported the idea of third countries supplying arms, but such a proposal was not ultimately adopted by the U.S. Government.[57]

6. [redacted][58]

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[55] [redacted]

[56] Woolsey Subcommittee Dep. at 54, 55, 56.

[57] Harrington Int. at 4; Holbrooke Subcommittee Dep.at 42-44.

[58] [redacted] Sept. 26, 1994.

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[redacted][59][redacted]

In fact, Bosnian officials had proposed "a deal" in which the Bosnians would put a moratorium on their calls for a lifting of the arms embargo in exchange for U.S. support and/or encouragement of third country efforts to supply arms to the Bosnians. Assistant Secretary Holbrooke testified that specific numbers were not discussed and no deal was ever reached. Assistant Secretary Holbrooke said that after Prime Minister Silajdzic asked the United States to support Bosnia's appeal to third countries for arms shipments, "I felt it was worth an affirmative response, so I began to staff it out with my Deputy Robert Frasure, and other people. And as you know, it was decided not to proceed. My job was to staff out this proposal and my involvement in this was fully discussed with my colleagues on the seventh floor."[60]

7. [redacted]

[59] [redacted] Oct. 7, 1994. [redacted]

[60] SSCI Holbrooke Hearing at 58-59.

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8. In early October, Assistant Secretary Holbrooke approached the DCI asking for guidance from the CIA's lawyers on what constitutes a covert action. The DCI told Holbrooke to speak to his own lawyers. State Department lawyers prepared a memo to Secretary Christopher regarding hypotheticals on covert action. Although the memo considered only hypotheticals, the conclusions strongly indicated to Assistant Secretary Holbrooke that requesting that a third country supply arms was not a covert action.

According to the DCI, on October 7, Assistant Secretary Holbrooke called to say that "he was ready to get together to with my lawyers to discuss the legal issue that he and I had been talking about, and I said that my general counsel had said that Mr. Ed Cummings in the legal advisor's office in the State Department knew the area as well as anyone in the U.S. Government. Ambassador Holbrooke said fine, he would talk to Mr. Cummings."[63] The DCI further testified that Mr. Holbrooke had told him that "the Secretary of State was entirely comfortable with, what they, that is Holbrooke, was doing."[64]

9. In November, Assistant Secretary Holbrooke asked Ambassador Galbraith whether he

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[61] Harrington Int. at 4.

[62] Holbrooke Subcommittee Dep. at 24.

[63] Hearing on U.S. Actions Regarding Iranian Arms Shipments into Bosnia Before the Senate Select Subcommittee on Intelligence, 104th Cong., 16-17 (1996) (statement of James Woolsey).

[64] Id. at 17.

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could "trust his [redacted]." The DCM reported this to the [redacted] who reported it by cable to Washington. Assistant Secretary Holbrooke told the IOB that he had asked Ambassador Galbraith this question because he had heard rumors of "active reporting of diplomatic communications" by the [redacted] IOB Chairman Harrington thought Assistant Secretary Holbrooke got this impression from his conversations with the DCI. In response to a question as to whether he had told a Croatian official that the [redacted] could not be trusted, Assistant Secretary Holbrooke responded: "You have got to be kidding...I don't know the [redacted] I never would say such a thing to a foreign official ever in any country."[65]

10. [redacted] In fact, President Clinton and President Tudjman did meet on September 26, 1994. However, the issue of covert arms was not raised.[66]

11. In the same meeting between General Clark and President Izetbegovic referred to in [redacted] President Izetbegovic told General Clark about two thousand tons of weapons destined for Bosnia were stockpiled in Maribor, Slovenia. The weapons were held up when fighting broke out between Bosnian Croats and Bosnian Muslims. President Izetbegovic requested U.S. intervention with the Slovenes to have the weapons released. General Clark asked if two thousand tons was enough to sustain the Bosnian Muslims to which President Izetbegovic replied "no." General Clark took the request back to General Shalikashvili and heard

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[65] Holbrooke Subcommittee Dep. at 24.

[66] Memcon of Sept. 26, 1994 meeting between President Tudjman and the President. This is one of many examples in which information provided by [redacted] was inaccurate.

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no more about it until Bosnian General Delic renewed the request in November 1994. To this day, Clark has no idea of the status of the weapons, but does not believe the U.S. facilitated the release of the weapons.[67] [redacted]

While United States officials -- from the staff level to the most senior level -- engaged in hypothetical discussions about lifting the embargo and/or providing arms to the Muslims, no United States assistance was provided. The Minority finds no evidence that United States officials engaged in a covert action to provide arms to Bosnia. In addition, no United States officials knowingly took any action to facilitate the transshipment of arms to Bosnia. Even if United States officials had taken such action to facilitate the transshipment of arms, it would not have constituted a covert action.

[67] Clark Subcommittee Dep. at 29-34.

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Chapter Two
Section Nine

THE INTELLIGENCE OVERSIGHT BOARD

The White House Chief Counsel convened an investigation of the Intelligence Oversight Board to review the activities of Ambassador Galbraith, Special Envoy Redman and Assistant Secretary Holbrooke in the spring of 1994 and again in the fall of 1994. The Intelligence Oversight Board generally interviewed the same individuals as the Select Subcommittee. The IOB concluded that no probable cause exists to refer the matters under investigation to the Department of Justice, and the Minority agrees with the conclusion. The Minority also concludes that the CIA suspicions were unfounded, and that better communications between the CIA, the National Security Council and the Department of State could have obviated the need for an IOB investigation.

Purpose of the Intelligence Oversight Board.

The Intelligence Oversight Board ("IOB") was created in 1976 and the current Board was constituted in 1993 under Executive Order 12863. The IOB is charged with preparing reports specifically for the President "of intelligence activities that the IOB believes may be unlawful or contrary to Executive order or Presidential directive."[1] The Board is directed to refer reports to the Attorney General if it believes that wrongdoing may have occurred. The Board is designed to help the President to ensure that highly sensitive intelligence activities are conducted in compliance with the law, Executive order, and Presidential directive, while avoiding the referral

[1] E.O. 12863, 58 F.R. 48441 (1993).

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of unfounded suspicions of illegality to the Department of Justice.[2]

The IOB has never released any report prepared for the President to the public. It did however, prepare a report specifically for release to the public relating to intelligence activities in Guatemala. No parallel can be drawn between the procedures on the Guatemala investigation and the Bosnia investigation. Before it began its investigation of the Guatemala case, the IOB committed to the U.S. citizen whose family was involved in the matter that findings would be made public, and it so informed those who were being interviewed in the course of the investigation.

The IOB is designed to provide the President with an independent review of intelligence activities and concerns.

> The IOB's work on behalf of the President is ordinarily conducted in confidence and shared only with the President and his immediate senior advisors. As a matter of comity, however, this Administration has sought to accommodate Congressional interest in the work of the IOB.[3]

Anthony Harrington, the Chairman of the IOB, briefed staff and offered to brief Members of the Select Subcommittee on its mandate and findings. The IOB also made available to the Select Subcommittee a list of individuals who, with very few exceptions, were the same individuals interviewed by the Select Subcommittee.

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[2] The Intelligence Oversight Board fact sheet describes in detail what the IOB was designed to accomplish.

[3] Letter from White House Counsel Jack Quinn to Rep. Lee H. Hamilton of Aug. 14, 1996, at 2.

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Intelligence Oversight Board Investigation.

At the request of former White House Counsel Abner J. Mikva, the IOB investigated concerns raised by the Central Intelligence Agency ("CIA") that United States officials may have been involved in a covert action to send arms shipments to Bosnia without first obtaining the legally required Presidential finding. The Select Subcommittee has been briefed by the IOB on its investigation and has reviewed the list of persons interviewed by the IOB. In addition, the Select Subcommittee has reviewed many of the documents that were reviewed by the IOB.

The IOB's mandate was limited. The main purpose of the IOB investigation was to determine whether reasonable cause existed to refer the matter to the U.S. Department of Justice for further investigation. The IOB determined and reported to the President that such cause did not exist. Since the IOB found no reasonable cause for referral to the Justice Department, there was no need for public disclosure and the matter was closed. The IOB considered three sets of events for purposes of determining whether a covert action occurred. First, the IOB examined whether Ambassador Galbraith was directly involved in facilitating the movement of a particular convoy suspected of carrying arms to Bosnia.[4] Second, the IOB investigated whether Ambassador Redman had provided direct assistance to the Bosnians through comments he made to President Tudjman at the April 29, 1994 meeting.[5] Finally, the IOB was to examine whether Ambassador Galbraith and/or Assistant Secretary of State Holbrooke made an offer of arms to the Bosnian Government.

The IOB found no evidence to suggest that U.S. officials had engaged in covert activities.

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[4] See Chapter Two, Section One for a detailed discussion of these events.

[5] Special Envoy Redman's involvement with the May 1994 convoy is discussed in Chapter Two, Section Four.

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IOB Chairman Anthony Harrington also reported that the IOB found that U.S. officials did nothing to request knowingly or otherwise facilitate the shipment of arms to the Bosnian Muslims during the time that the international arms embargo was in effect. As discussed in detail in Section Five of Chapter One, even if such facilitation had occurred, it would not have constituted a covert action.

The IOB concluded that during the late summer and early fall of 1994, the Administration was conducting a review of the options available to arm the Bosnians. Specifically, Assistant Secretary Richard Holbrooke had advocated a plan in which the United States would ask third countries, such as Saudi Arabia and Turkey, to supply arms to the Bosnians. He and other United States Government officials solicited Croatian and Bosnian opinions on "what it would take" to carry out such a plan. The plan ultimately did not go forward because of objections from National Security Advisor Anthony Lake and Secretary of State Warren Christopher. Administration lawyers concluded that even if a plan in which the United States requested others to supply arms did go forward, it would not have constituted covert action if the U.S. was not directly involved in providing these arms.

The IOB subsequently examined reports that U.S. officials helped to facilitate the transfer of [redacted] missiles to Bosnia. The IOB concluded that there was no indication that Ambassador Galbraith pressed the Croatian Government into allowing the missiles into Bosnia. [redacted]

The Select Subcommittee's mandate covers a much wider set of issues than that of the IOB. Accordingly, the Select Subcommittee's investigation is more exhaustive. Like the IOB, however, the Minority finds no reason to recommend further investigation by the Department of Justice or for that matter, any other body.

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Chapter Three
Section One

IRANIAN INVOLVEMENT IN BOSNIA AND CROATIA 1991-1996

The Minority considers the assertion that the "no instructions" response opened the door for Iran to march into Bosnia and Croatia to be insupportable. The idea that the Iranian presence in Bosnia depends on two five minute discussions cannot be sustained under even the most intense scrutiny. Bosnia is a Muslim country. Iran was vocal in its support of Bosnia. Regardless of whether Ambassador Galbraith responded that he has no instructions, that the U.S. objects to the arms embargo against third countries, or that the U.S. supports third country shipments, Iran and other Islamic terrorist states would have access to Bosnia. What is indisputable is that the Iranian presence today is a fraction of what it was in the spring of 1994.

The Select Subcommittee investigated the implications of the Iranian arms transfers for the safety of United States troops, relations with United States allies and U.S. efforts to isolate Iran. More specifically, the Select Subcommittee considered whether the United States reply of "no instructions" to Croatia in April 1994, and Croatia's acceptance of covert arms shipments from Iran and other Islamic countries for transport to the Bosnian Muslims, gave Iran a "foothold" in Europe.[1] Indeed, Iran maintains a diplomatic presence in and has economic ties to

[1] See James Risen, Administration Defends its OK of Bosnia Arms, Los Angeles Times, Apr. 6, 1996, at A1 (House International Relations Chairman Benjamin Gilman (R-NY) issued a statement that the Clinton policy has "given a terrorist regime a foothold in the Balkans"). See also, James Risen, Gingrich Criticizes Clinton Over Bosnia, Los Angeles Times, Apr. 11, 1996, at A12, (in which House Speaker Newt Gingrich (R-GA) said, "to wink and nod at Iran getting a foothold in Europe is extraordinarily dangerous.").

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many other countries in Europe.[2] It strains credulity to suggest this single diplomatic exchange paved the way for Iran to establish a presence in Europe, especially in light of the fact that intelligence reports suggest Iran had contact with the Bosnian Muslim community as part of its general foreign policy since 1979 and, after the war began in 1991, became involved actively in the region.[3] Thus, the decision among Iran, Croatia and Bosnia to re-open, in earnest, the arms pipeline in 1994 was made in the wake of numerous prior decisions that had established Iran's extensive network of activity and influence in the region. After 1994, observers noted an increase in the number of Iranians in the region, but there is no evidence that would link the increased Iranian presence with the arms pipeline.[4] Since the Dayton Accord was signed in

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[2] [redacted] Briefing for Select Subcommittee staff, Sept. 11, 1996, at 2 (hereinafter [redacted] Briefing").

[3] DCI Interagency Balkan Task Force [redacted] The report was transmitted to the Select Subcommittee on September 5, 1996, as follow-up to a briefing provided to the Select Subcommittee staff on August 21, 1996; See also, James Risen and Doyle McManus, US Had Options to Let Bosnia Get Arms, Avoid Iran, Los Angeles Times, July 15, 1996, at A1, A6 (hereinafter "US Had Options"); John Pomfret and David Ottaway, US Allies Fed Pipeline of Covert Arms to Bosnia, Washington Post, May 12, 1996, at A1; U.S. Department of State, Basic Chronology of the Bosnia Arms Embargo - Iran Connection (hereinafter "DOS Basic Chronology"). Many press reports and the Department of State Chronology trace Iranian involvement in the region to 1991, although little information on the extent of Iran's activities during this year is available.

[4] Select Subcommittee Deposition of Strobe Talbott, Sept. 5, 1996, at 43 (hereinafter "Talbott Subcommittee Dep."). Representative Hamilton asked Talbott if the no instructions policy resulted in an Iranian foothold in Bosnia. Talbott replied that "their foot was already in the door, the Iranians had been active since 1991, had been present in Bosnia since 1991." See also Select Subcommittee Deposition of Peter Tarnoff, Sept. 13, 1996, at 20. Mr. Tarnoff was asked if the Iranian presence increased after the arms shipments in 1994 began. Mr. Tarnoff replied "It did not significantly increase associated with the shipment. . . . There was no evidence that there was significant increase in Iranians directly linked to the flow of arms." See also US Had Options in which a United States official commented, "The Iranians have done their best to

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December 1995, the number of Iranians in the region has dropped to the lowest level since 1991.

In Bosnia, Iran used a blueprint typical of its operations in other countries with a Muslim population.[5] This blueprint included arms shipments and military support, humanitarian relief, and the establishment of religious and cultural centers. The Iranians also bolstered their presence in the region through diplomatic and intelligence efforts.

Origins of Iranian Military Involvement.

Iran offered Bosnian President Izetbegovic economic aid as early as 1991. By 1992, the first press reports of Bosnian Serb attacks on the government's Muslim forces reached Iran. The Iranian government harshly criticized the Serbs' actions and ceased exporting oil to Yugoslavia (Serbia and Montenegro).[6] In August 1992, Iran deployed a fact-finding delegation to Bosnia to investigate the Muslims' condition.[7] While in Bosnia, the delegation met with senior Bosnian and Croatian clerics and political leaders, as well as Bosnian Muslim refugees.[8] The trip was reported widely in the Iranian press and galvanized strong public sentiment in favor of Iranian

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burrow into Bosnia's military and intelligence services. That probably would have happened anyway, without the arms pipeline. The arms pipeline didn't establish an Iranian beachhead in Bosnia. The beachhead was already there."

[5] [redacted] **Briefing, Sept. 11, 1996.**

[6] **Defense** Intelligence Agency [redacted] Feb. **16, 1996** (hereinafter [redacted]

[redacted]

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intervention and military support for the besieged Muslim population.[9]

[redacted][10]

[redacted][11]

Iran's Bosnian policy also included efforts to garner support for multilateral intervention to aid Muslims among the member-states of the Organization of the Islamic Conference ("OIC"). When support for formal, overt action was not quickly forthcoming, and the European and U.N. nations confirmed their intent to uphold the embargo, Iran decided to implement its policy unilaterally. Thus, Iran's intention to become more heavily involved in the region was firmly fixed more than two years prior to the April 1994 meetings between Ambassador Galbraith and U.S. Special Envoy Redman, and Croatian President Tudjman.

Military Arms.

[redacted]

[10] Defense Intelligence Report, [redacted]" Aug. 22, 1995, at 2 (hereinafter "[redacted]

[11] [redacted] Feb. 16, 1996.

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Iran began supplying clandestine military assistance to the region in 1991.[12] Following the Bosnian declaration of independence in early 1992, arms shipments from several Islamic sources, including Iran, flowed into Bosnia.[13] [redacted][14] [redacted][15] [redacted][16]

By September 1992, Iranian arms shipments were flying into Croatia. In exchange for Croatia allowing Iran to use its airfields, Iran provided Croatia with up to thirty percent of every arms shipment. On September 6, 1992, western and Croatian press reported that United Nations authorities discovered arms aboard an Iranian Boeing 747 that had landed in Zagreb.[17] This report confirmed suspicions that Iran had been delivering arms to Bosnian Muslim forces via Croatia. [redacted]

[12] US Had Options at A1, which reports that Iran sent shipments of arms to the government of Bosnia beginning in 1991. See also DOS Basic Chronology (noting that small arms were smuggled into Croatia beginning September 1991).

[13] DOS Basic Chronology.

[14] [redacted]

[15] [redacted]

[16] [redacted]

[17] Douglas Jehl, Iranian Effort to Send Bosnia Arms Reported, Los Angeles Times, Sept. 10, 1992, at A1, A6.

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[redacted][18]

Despite the publicity generated by the illegal arms shipment, a United States demarche to Croatia and a United Nations Committee investigation into the matter, Iran was committed to assisting the Bosnian Muslims.[19] [redacted][20] [redacted][21]

In addition to air cargo deliveries, Iran also attempted to send weapons to Croatia by sea. In January 1993 in the last days of the Bush Administration, the Egyptian-registered cargo ship *Eco Sherief*, was bound for Croatia laden with arms and ammunition.[22] After being challenged by ships enforcing the UN arms embargo, the *Sherief* was ordered to unload its cargo in Turkey. The search of its freight revealed small arms from Iran.[23] [redacted]

[18] [redacted]

[19] DIA Cable [redacted]

[20] [redacted]

[21] [redacted] Dec. 31, 1992.

[22] Defense Intelligence Digest Weekend Edition, "Iraq: Situation Report," Jan. 17, 1993, at 2.

[23] Id. See also Growing Military Involvement at 2.

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[redacted][24]

[redacted][25]

When fighting erupted between the Croats and Bosnian Muslims in May 1993, Croatia closed the arms pipeline Iran had used to transport weapons through Zagreb to Bosnia. [redacted]

[redacted][26] Some arms did trickle through, but, for the next year, Iran focused on providing the Muslims with military training rather than delivering military equipment. At no time, however, did Iran abandon its objectives in Bosnia. [redacted]

The March 1994 Federation Agreement between the Croats and Muslims established a tentative peace between the two parties and opened the way for renewed Iranian efforts to transport weapons to Bosnia. In April 1994, Iran, Croatia and Bosnia finalized discussions regarding the reopening of the Croatian arms pipeline, once again allowing Croatia thirty percent of the arms shipped.[27] Iran's first delivery of weapons occurred in May and continued with varying frequency until January 1996. During this time, Iran reportedly shipped [redacted]

[24] Defense Intelligence Report, [redacted] Jan. 21, 1993, at 3. [redacted]

[25] [redacted]

[26] DIA Cable [redacted]

[27] [redacted]

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[redacted] of arms to Bosnia through the pipeline-- two-thirds of Bosnia's military hardware.[28] Although Iran was the largest supplier of weapons, other countries such as Pakistan, Saudi Arabia and Malaysia also smuggled weapons to the Bosnian Government.[29] [redacted]

Military Personnel Deployment.

Concurrent with Iran's early weapons and humanitarian shipments, Iran ordered senior members of its Iranian Revolutionary Guard Corps ("IRGC"), the elite military force used to advance militant Islam, to travel to Bosnia to survey the military needs of the Government.[30] [redacted]

[redacted][31] [redacted][32] IRGC trainers taught the Muslims how to use anti-tank missiles and helped with troop logistics and weapons factories.[33] The IRGC also

[28] [redacted]

[29] Rupert Cornwell, Clinton Faces Flack over Bosnia Arms Trade, The Independent, May 14, 1996, at 8.

[30] [redacted] See also [redacted] Briefing.

[31] [redacted]

[32] [redacted]

[33] Doyle McManus and James Risen, US Didn't Foresee Iran's Wider Role in Bosnia Conflict, Los Angeles Times, Apr. 23, 1996, at A1 (hereinafter "Iran's Wider Role").

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incorporated religious indoctrination into the military training.[34]

[redacted]

[35]

[redacted]

[36]

[redacted]

[37]

[redacted]

[38]

[redacted]

[39] Iran used this leverage to urge the Hizballah to send foreign fighters to the region as members of the Mujahideen. The effort was successful and a force of thousands drawn from

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[34] Briefing.

[35] [redacted]

[36] [redacted]

[37] [redacted]

[38] [redacted]

[39] [redacted] Sept. 11, 1996.

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several pro-Iranian groups and other Islamic Opposition movements assembled in Bosnia.[40] The Mujahideen operated in small, cohesive units offering both their infantry skills and military training.[41]

Iran's military efforts and contributions to the Bosnian Muslims were notable.

[redacted][42]

Humanitarian Aid.

Iran provided impressive amounts of humanitarian aid directly to Bosnia beginning in 1992.[redacted][43][redacted][44]

[40] Alfred Prados, et al, Bosnia-Hercegovina: Foreign Islamic Fighters ("Mujahideen"), CRS Report 95-1203F, Jan. 29, 1996, at 3 (hereinafter "Prados"). The numbers for membership of the Mujahideen vary - a UN source estimated 1,000 members in October, 1995, while December news stories quoting European and UN officials estimated their strength at 2,000-4,000. Id.

[41] Id. at 2.

[42] [redacted]

[43] [redacted]

[44] [redacted]

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[redacted][45]

[redacted][46]

In addition to the arms pipeline and shipping channels, Iran used private, quasi-legitimate humanitarian aid organizations to provide cover for arms shipments to the Bosnian Muslims. The Third World Relief Agency, Merhamet and the Iranian-based humanitarian aid organization - the Red Crescent Society - were among those Iran utilized to funnel weapons and arms procurement funds to the Bosnian Muslims.[47] These organizations had offices throughout Croatia and Bosnia from which they operated legitimate civilian aid projects including food and clothing delivery, opening clinics, and rebuilding structures and roads. These organizations also supplied the Bosnian Army with funds and weapons. [redacted]

[redacted][48]

[redacted][45]

[redacted][46]

[47] MID Special Report [redacted] July 11, 1995. See also John Pomfret, How Bosnia's Muslims Dodged Arms Embargo; Relief Agency Brokered Aid from Nations, Radical Groups, The Washington Post, Sept. 22, 1996 at A1 (hereinafter "Pomfret"). The Third World Relief Agency received donations from many Muslim governments and radical Islamic movements, a significant portion of which was used to purchase weapons illegally for the Bosnian Army. Id.

[redacted][48]

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Diplomatic Activities.

Iran has continually spearheaded diplomatic efforts to encourage the United Nations and the OIC to become more actively involved in providing support to the Bosnian Muslims. On several occasions, Iran urged the United Nations to exempt Bosnia from the arms embargo, send troops to the region, enforce more vigorously the no-fly zone and accept Iran's offer to contribute 10,000 troops to UNPROFOR.[49] Iran also worked within the OIC urging member states to take action beyond the confines of those mandated by the United Nations Security Council and to work to persuade the United Nations to approve a military force to intervene in Bosnia.[50] In December 1992, Iran was instrumental in achieving an OIC declaration calling for a lifting of the arms embargo.[51] In December 1994, the OIC adopted a resolution stating "it is neither legally or morally permissible" that the embargo be applied to Bosnia and Hercegovina.[52] In June 1995, Iran campaigned within the OIC for a resolution declaring the UN arms embargo as "illegal" and pledging to provide additional support. By September 1995, Iran was among the OIC countries which established the Assistance Mobilization Group ("AMG"). The AMG's mission was to supply military, economic, legal and other aid to the Bosnian Government.[53] Additionally, Iran lobbied officials from the newly declared territories and the former Yugoslavia to take steps to

[49] [redacted]

[50] [redacted] See also [redacted]

[51] Prados at 3.

[52] Id. at 2.

[53] DIA Cable, [redacted] Feb. 27, 1996. [redacted]

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end the Bosnian Serb aggression.[54] [redacted]

[redacted][55]

Intelligence Activities.

[redacted][56]

[redacted][57]

[redacted][58]

[redacted]

[redacted]

[redacted

[redacted]

Economic Support Activities.

One of President Izetbegovic's first trips abroad after being elected in 1992 was to Iran. Izetbegovic went to Iran seeking economic aid and other assistance for Bosnia's failing economy.[60] In November 1992, Iran's Supreme Leader Khamenei bestowed a $3.3 million contribution to the Bosnian government,[61] and in 1994, Iran's Foreign Minister, Ali Akbar Valayatia, delivered a check for $1 million to Sarajevo with promises of more to come.[62] Throughout 1994 and 1995, Bosnia and Iran signed a series of economic agreements and announced plans for expanded economic ties.[63] Iran worked closely with Bosnia to promote economic cooperation and to examine potential trade and commercial relationships.[64]

Iranian Influence Following the Dayton Agreement.

The level of military arms and personnel, humanitarian relief, diplomatic and intelligence activity and economic support provided or promised by Iran to Bosnia prior to May 1, 1994,

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[redacted]

[60] Pomfret at A1. See also Kitty McKinsey, Bosnia Fears it will be Sliced up by Croatia and Serbia, The Ottawa Citizen, at B5.

[61] Pomfret at A1.

[62] Iran's Wider Role.

[63] Id.

[64] DIA Document: Executive Highlights, Dec. 7, 1995.

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leaves no doubt that Iran had established a foothold in Bosnia soon after the war began.

By the signing of the Dayton Agreement in December 1995, Iran had made vast contributions to the Bosnian Muslims. [redacted] Iran's supply of arms won it praise from Bosnian President Izetbegovic for assisting the Muslims when other nations refused. [redacted][66]

Throughout the Bosnian conflict, the United States has been concerned about the Iranian presence in and relationship with Bosnia. Continued war and instability offered Iran an opportunity to exert its influence. According to Deputy Secretary of State Strobe Talbott, however, the only way to get the Iranians out was through the peace process.[67] Consequently, the U.S. insisted on the inclusion of a provision in the Dayton Peace Agreement that required the removal of "foreign forces" from the region before implementation of the U.S. equip and train program.[68] The promise of an equip and train program for Bosnia gave the U.S. leverage to insist

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[65] Military Intelligence Digest, [redacted] Apr. 3, 1996.

[66] Response to House International Relations Committee request for information, Estimated Number of Iranians in Croatia and Bosnia and Herzegovina, 1994-1996, [redacted]

[67] Talbott Subcommittee Dep. at 42.

[68] See Dayton Peace Agreement Article III of the Annex on Military Aspects, paragraph one that states "All Forces in Bosnia and Herzegovina as of the date this Annex enters into force

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upon the departure of the Iranians.

Had the United States responded negatively to the Tudjman request in April 1994, the Croatians were unlikely to allow weapons to transit Croatia. The war might have dragged on even longer, enabling the Iranians to establish themselves more firmly in Bosnia, and depriving the United States of leverage with which to mitigate the Iranian's influence. Conversely, if the United States had responded positively to the Croatian request, the Croats and Bosnian Muslims would likely have perceived a U.S. endorsement of Iran's activities in the region.

Since the spring of 1996, U.S. officials have reported a significant reduction in foreign forces. Strobe Talbott characterizes their presence today as "minimal in the extreme and acceptable under the terms of the Dayton accords, which are quite stringent with regard to obligating the Bosnian Government to get rid of all but a traditional diplomatic presence."[69] Although some press reports have described a continuing presence of Iranians in the region and a lingering Mujahideen influence in Bosnia,[70] National Security Advisor Anthony Lake advised the Select Subcommittee that the Bosnians have a "perfect track record" of expelling Iranians who

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which are not local origin, whether or not they are legally and militarily subordinated to the Republic of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, or Republika Srpska, shall be withdrawn together with their equipment from the territory of Bosnia and Herzegovina within thirty days." Paragraph two reads, in part, "all foreign Forces, including individual advisors, freedom fighters, trainers, volunteers, and personnel from neighboring and other States, shall be withdrawn from the territory of Bosnia and Herzegovina; see also Prados at 5.

[69] Talbott Subcommittee Dep. at 44.

[70] Philip Smucker, Bosnia Terrorized by Foreign Soldiers Who Aided Muslims, Washington Times, Aug. 8, 1996, at A13; Majority Report at 182.

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have slipped back into Bosnia in violation of the Dayton Peace Accords.[71] Deputy Assistant Director of the National Security Council Samuel Berger confirmed that a vigorous dialogue between the United States and Bosnia has been maintained to insure Bosnia's adherence to the Foreign Forces provision of the Dayton Accords.[72] [redacted]

[redacted][73]

Iranian Failure to Achieve its Objectives in Bosnia.

In conclusion, Iran has achieved only limited objectives in Bosnia, including establishing a small diplomatic and cultural presence. Although Iran remained a friend of Bosnia when many other countries refused to aid the Bosnian Muslim cause, Iran has realized less than it hoped to show for its efforts. The arms shipments provided to the Bosnians and Croatians came primarily from outdated stockpiles and Iran paid for the cargo costs without receiving funds in return. The majority of the economic deals were concluded with Bosnia and Croatia as a symbol of solidarity and have little financial value. With the recent Administration decisions to penalize countries with heavy investments in Iran, it may be even less likely that Croatia and Bosnia will enter into meaningful economic programs with Iran. Even among the Islamic countries, Iran was not the

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[71] Select Subcommittee Interview of Anthony Lake, Sept. 26, 1996, at 4 (hereinafter "Lake Subcommittee Int.").

[72] Select Subcommittee Interview of Samuel Berger, Sept. 25, 1996, at 6.

[73] [redacted] Aug. 19, 1996. [redacted]

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primary source of all aid to the Bosnian Muslims and its calls for more activist approaches to the conflict went unheeded by the majority of the Islamic states.

Iran had little hope of success within Bosnia for the establishment of a fundamentalist Islamic state. An October 1994 intelligence report analyzed this concern and found it highly unlikely that the Bosnians, who are not the same sect as the Iranians, would succumb to fundamental Islam. The report explained that the term "Muslim" was more of an ethnic rather than religious denominator in the former Yugoslavia and that most "Muslims" generally were unaware of their religious heritage because two generations had grown up without any religious education.[74]

Western journalists, the report noted, were concentrated in Sarajevo where it was most likely that they would see Muslims practicing their religion and therefore, it was reported that Islam was spreading throughout the country.[75] The Serbs also were aware of European concerns about the spread of Islamic fundamentalism and they continued to make and exploit fears of Islam in hopes of diminishing support for the Bosnian Muslims.[76] The Iranians were largely unsuccessful in converting the primarily secular Bosnian Muslims to fundamentalist practice. It is also important to note that there was not a single faction within the Bosnian government who aligned themselves with the Iranians in a desire to prolong the Bosnian conflict in order for Iran

[74] INR Report to the Assistant Secretary, Oct. 31, 1994 (S).

[75] Id.

[76] Id.

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to spread its influence beyond the region.[77] As former U.S. Special Envoy to the Former Yugoslavia Reginald Bartholemew stated: "There is no way that the Muslims could create a fundamentalist state . . . in the Balkans."[78]

[77] INR Morning Briefing for the Secretary of State, Sept: 23, 1995 (TS U G NF NC ORCON)

[78] Department of State Cable, Apr. 2, 1993 (comments by Reginald Bartholemew).

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Chapter Three
Section Two

THE THREAT OF TERRORISM TO EMBASSY ZAGREB PERSONNEL

The threat of terrorism was a serious concern in Bosnia and Croatia throughout the war. The Minority does not believe that any attempt should be made to minimize the threat. However, the terrorist threat was probably no greater than the threat against American civilian, military and intelligence personnel in Athens, London, or in any capital which has been the target of internationally known terrorist groups. No additional terrorists entered Bosnia or Croatia as a result of the "no instructions" response. People with extreme anti-American views already were in the two countries and will remain so. The Minority believes that the United States must be vigilant against terrorism -- as was the case in Zagreb and in Sarajevo -- but the threat of terrorism cannot prevent the United States from pursuing its interests in Zagreb, Sarajevo or anywhere else.

The potential consequences of the April 1994 "no instructions" response that caused the gravest concerns to the Administration were the reaction of our allies and the role of the Iranians. With respect to the latter, each of the principal decision makers in the formulation of the "no instructions" response was well aware that Iran would be a major supplier of arms if the Government of Croatia agreed to serve as a transshipment point.[1]

The involvement of the Iranians in supplying arms could improve their access to government leaders in Croatia and Bosnia-Herzegovina and enhance their importance to such

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[1] Select Subcommittee Deposition of Assistant Secretary of State Peter Tarnoff, Sept. 13, 1996, at 19 (hereinafter "Tarnoff Subcommittee Dep.").

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leaders. Clearly, these were significant downsides to the "no instructions" response which had to be weighed against the critical need of allowing the transshipment of arms for Bosnians in a manner that minimized the potential for allied objections.

The involvement of the Iranians posed another, and equally important, potential problem. The presence of Iranians inevitably raised the specter of terrorism. The Administration, like each previous Administration, considered Iran to be the "single most dangerous [state] in terms of its support for international terrorism."[2] Thus, any action such as providing U.S. ground troops as part of the IFOR force or, in the case of the "no instructions" response, any inaction that might contribute to an increased Iranian presence in proximity to people and property of the United States had to be taken with the utmost caution.[3] As described in the following section, the threat of Iranian terrorism has declined substantially since 1994. There are other sources of terrorist threats in the region besides Iran. The Minority believes that all threats of terrorism in the region must be taken seriously and guarded against vigilantly.

In order to evaluate whether the Administration exercised the requisite degree of care, a distinction must be drawn between the extent to which the "no instructions" response resulted in an increase in the flow of Iranian arms to Bosnia and Croatia and/or an increase in the presence of Iranians in Bosnia and Croatia. The first issue is a military and political question; i.e., will the

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[2] Select Subcommittee Deposition of Deputy Secretary of State Strobe Talbott, Sept.5, 1996, at 51 (hereinafter "Talbott Subcommittee Dep.").

[3] See Chapter Three, Section Three for a discussion of the United States commitment of troops to the IFOR force and the steps taken by the United States to mitigate any terrorist threat to the Armed Forces before they were deployed to Bosnia in December 1995.

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arms help the Bosnian Muslims to survive and will the arms flows cause a serious disruption with our allies? The second issue is a security question; i.e., will more Iranians with terrorist inclinations enter Bosnia and Croatia?[redacted]

Iranian Terrorist Presence in Bosnia.

[redacted]

[redacted] The table was included in a memorandum transmitted to the Select Subcommittee by the CIA in response to a request for information on Pakistan's arms sales to Bosnia from June 1993 to December 1996.[redacted]

[redacted] DCI Interagency Balkan Task Force[redacted]

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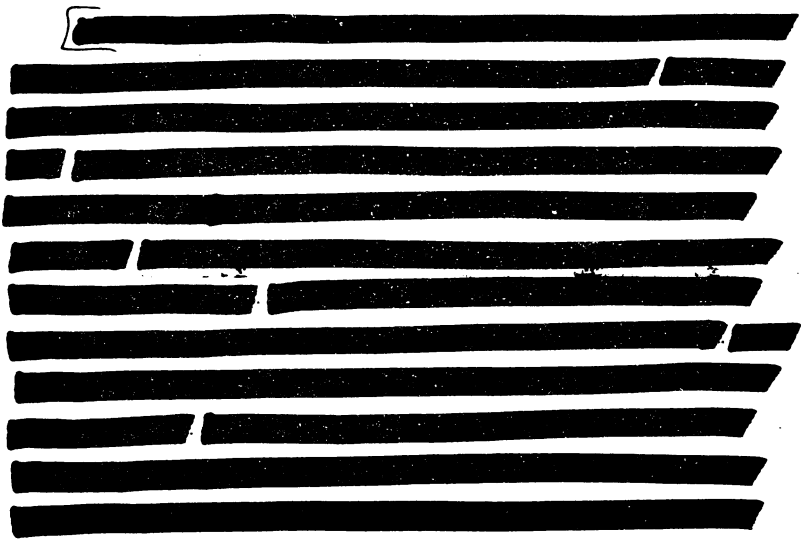
Iranian Terrorist Presence in Croatia.



[9] CIA Table, Aug. 19, 1996.

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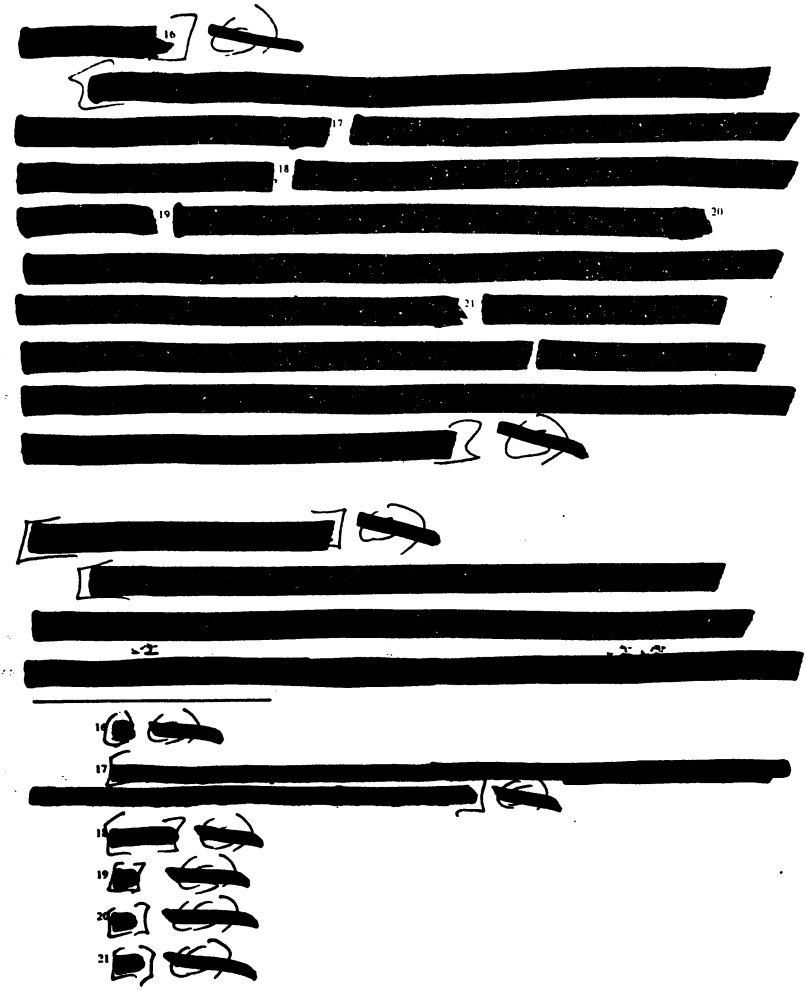

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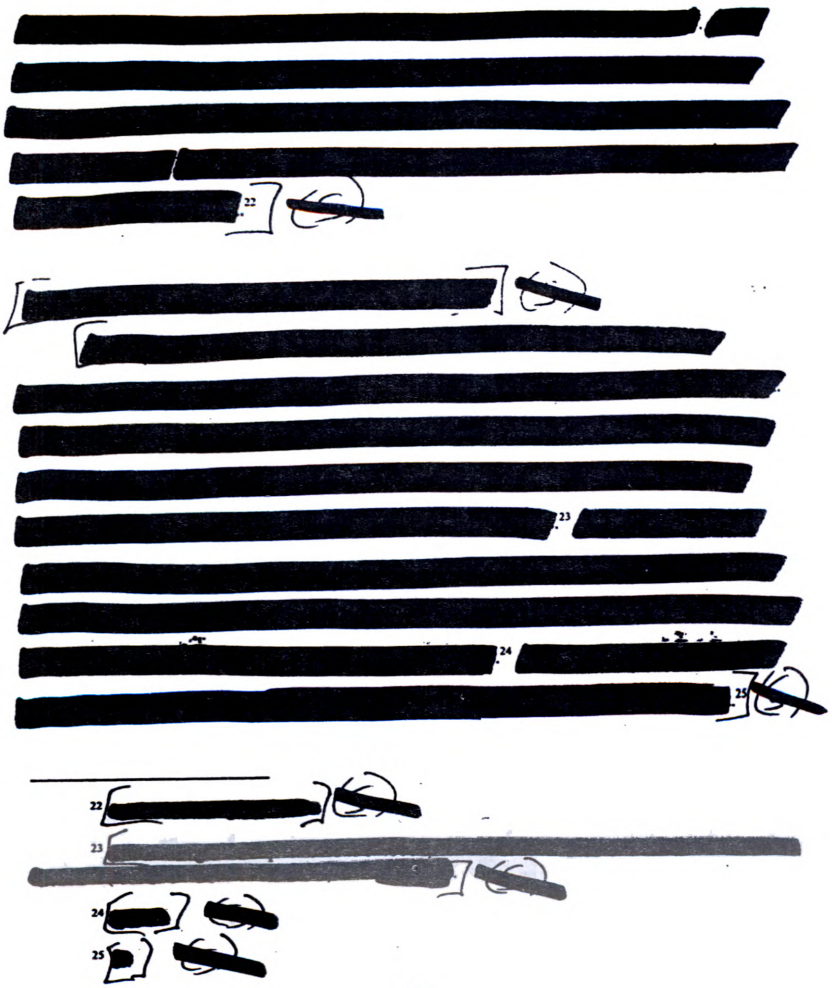

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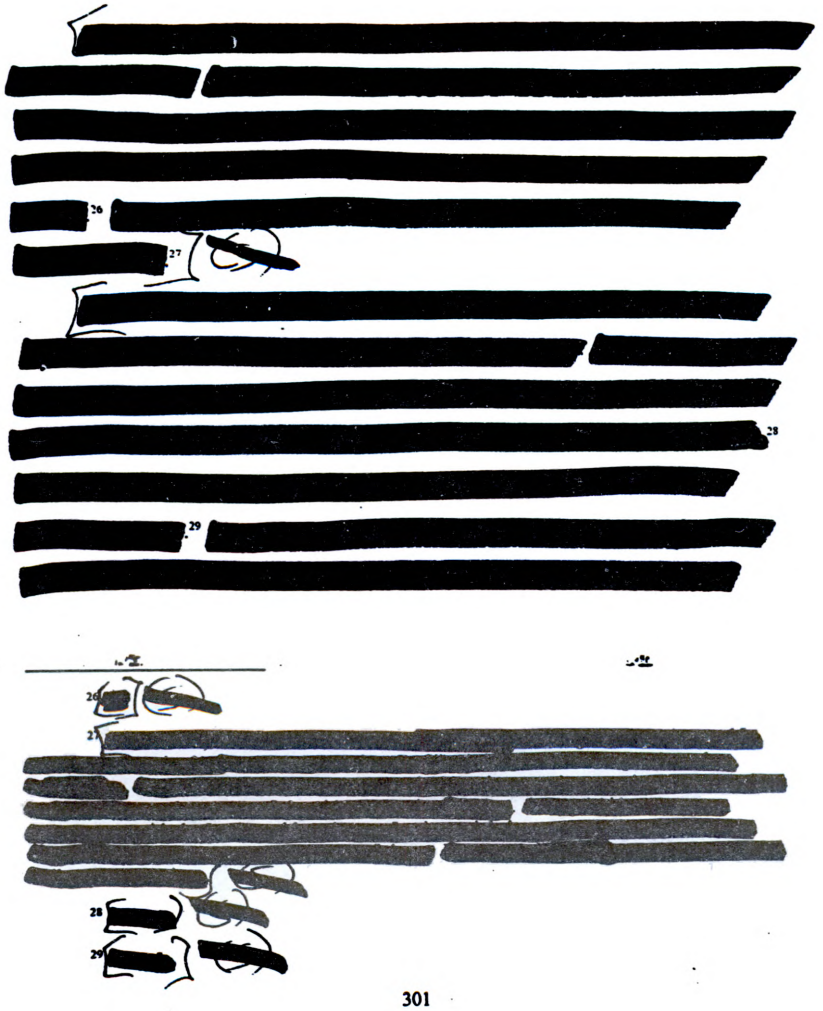

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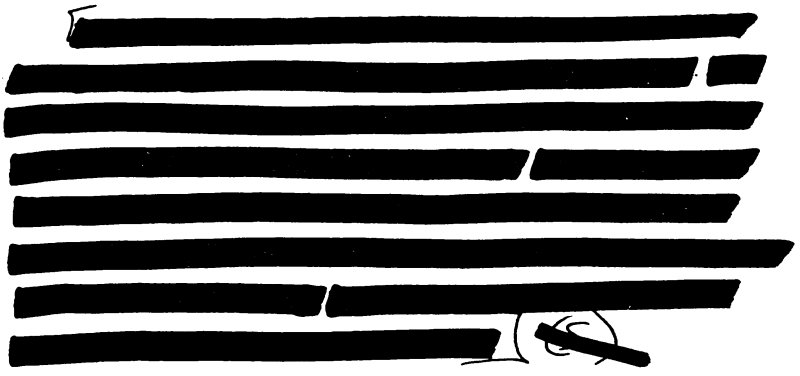
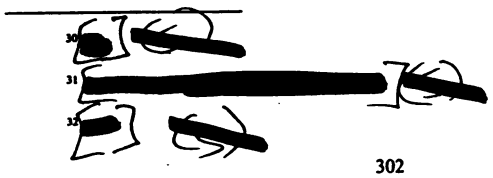
1993 Terrorist Incident.





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1995 Terrorist Threat.

According to Intelligence Research specialists with the Office of Intelligence and Threat Analysis at the Department of State, security threats increased at Embassy Zagreb in 1995.[33] The threats came from many sources, the Iranians in general and HAMAS and Hezbollah in particular, but also involved surveillance of the Ambassador by the Egyptian organization al-Gama' at al-Islamiyya.[34] [redacted][35] [redacted][36]

Unlike the 1993 incident, the 1995 incidents were not "operational," but the specialists could not determine if the Iranian activity was either "pre-operational" or simply information gathering. The incidents were, however, consistent with the evidence of world-wide surveillance

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[33] Select Subcommittee Interview of Maria Barton, Intelligence Research Specialist, Office of Intelligence and Threat Analysis, United States Department of State ("USDS"), and Paul Vogel, Senior Desk Officer, Diplomatic Security, Overseas Program EUR, USDS, Oct. 3, 1996 at 2 (hereinafter "Diplomatic Security Briefing").

[34] Id.; Galbraith Subcommittee Dep. at 181.

[35] The U.S. Department of State specialists did not know if the additional information about Zagreb was due to greater activity in Zagreb or greater reporting from Embassy Zagreb. In the deposition of the [redacted] he indicated that U.S. Department of State worldwide alerts about Iranian terrorist threats were due, in part, to Zagreb reporting which suggests that more was known about Zagreb as a result of the quantity of reporting rather than to a higher degree of terrorist activity [redacted]

[36] Id.

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being conducted by Hezbollah. Needless to state, the fact that Embassy Zagreb was one of many United States Embassies throughout Europe and the world subjected to Hezbollah surveillance does not lessen the risk or the need to respond, but it does suggest strongly that the delivery of the "no instructions" response twelve months earlier was not related causally to the current terrorist threat.[37]

Embassy Zagreb Response.

[redacted] [38] At the affected Embassy, an Emergency Action Committee ("EAC") consisting of the Ambassador, the Deputy Chief of Mission ("DCM"), the [redacted] and the RSO is established to monitor the threat. [redacted] [39] [redacted] [40]

[37] [redacted] Subcommittee Dep. at 71. [redacted]

[38] [redacted]

[39] Herrick Subcommittee Dep. at 78; Select Subcommittee Deposition of [redacted] Aug. 9, 1996, at 142 (hereinafter [redacted] Subcommittee Dep.").

[40] Herrick Subcommittee Dep. at page 79; Select Subcommittee Deposition of Charlotte Stottman, Aug. 10, 1996, at 94 (hereinafter "Stottman Subcommittee Dep.").

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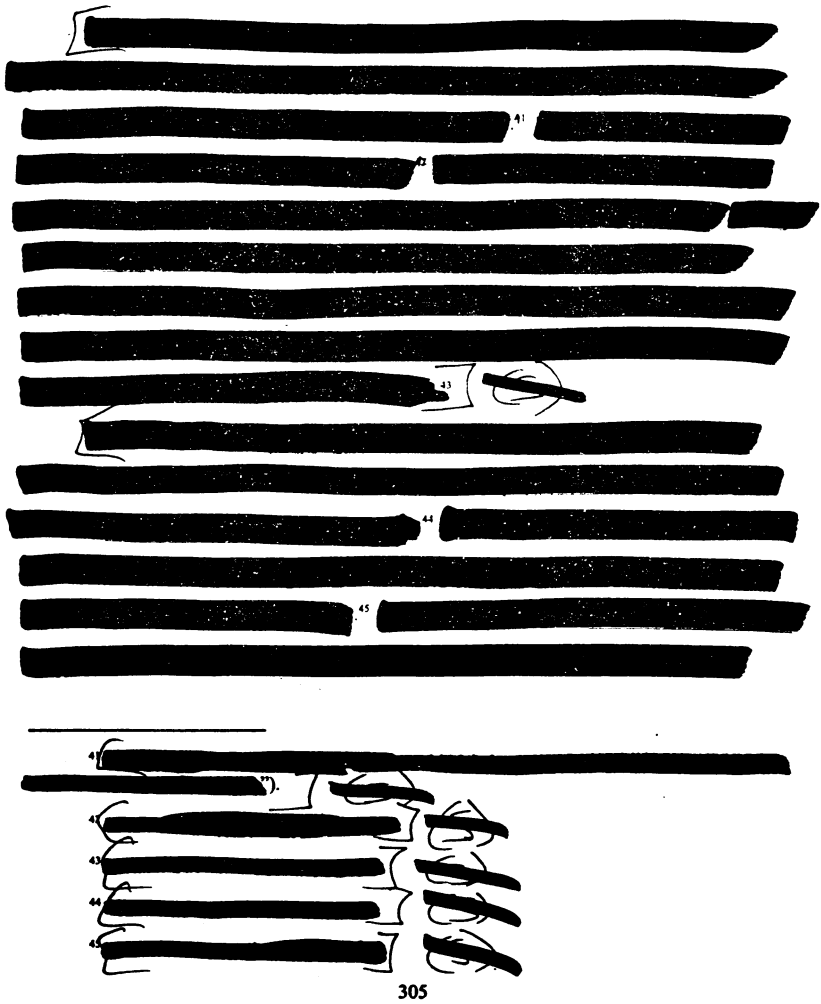

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[redacted][49]

Current Status of Iranian Terrorist Threat.

The Select Subcommittee questioned [redacted] in Bosnia, about the presence of Iranians. [redacted] replied that there are "many less [Iranians] now than there were at one time."[50] Although [redacted] thought the number was small, he cautioned that some of the few Iranians who remained might be "terrorist trained."[51] The presence of the Mujahideen, of whom only a small percentage are Iranian, is far greater in Bosnia at the current time.[52]

The Select Subcommittee also questioned the current Regional Security Officer of Embassy Zagreb about the terrorist threat in Croatia. The RSO responded that the last terrorist action occurred in September 1995 at a Rijeka police station which is located far from the embassy. The RSO also stated that no further incidents of surveillance of the Ambassador or of embassy vehicles had been reported since the summer of 1995; nor have any complaints of surveillance or other suspicious activity been filed or otherwise brought to the attention of the RSO by Embassy Zagreb personnel. The RSO advised the Select Subcommittee that security concerns have changed dramatically, and the threat has dropped very rapidly.[53]

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[49] Select Subcommittee Interview of Robert L. Davis, Supervisory Special Agent, U.S. Department of State Diplomatic Security Service, Oct. 4, 1996, at 1 (hereinafter "Davis Subcommittee Int.").

[50] [redacted] Subcommittee Dep. at 42.

[51] [redacted]

[52] [redacted]

[53] Select Subcommittee Interview of William Root, Regional Security Officer at Embassy Zagreb, Aug. 8, 1996 (hereinafter "Root Subcommittee Int.").

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Chapter Three
Section Three

IFOR DEPLOYMENT AND POTENTIAL RISKS TO UNITED STATES TROOPS AND PERSONNEL

In December 1995, following the signing of the Dayton Peace Accord, the United Nations Security Council passed Resolution 1031 authorizing a one-year deployment of an Implementation Force ("IFOR") to the Balkans to implement the military aspects of the new peace plan.[1] The resolution mandated the United Nations peacekeeping force, UNPROFOR, to transfer its operational authority to IFOR, action which occurred December 20, 1995.

Mission of IFOR.

The primary mission of IFOR is to execute the military facets of the Dayton Peace Accord which would establish the climate for civilian peace measures to take hold and prosper. To this end, the duties of IFOR included overseeing the withdrawal of Bosnian Federation and Bosnian Serb Army forces along the zone of separation and the demobilization of their respective forces.[2] The ongoing mission also includes enforcing the cease-fire agreement, monitoring the restrictions on airspace, overseeing the release of prisoners of war, and participating in de-mining

[1] United Nations Security Resolution 1031, passed December 15, 1995. Article II authorizes the establishment of a multinational implementation force to undertake the military aspects of the Dayton Peace Accord.

[2] Implementation and Future Prospects for the Dayton Accords, 104th Cong., 2nd Sess. July 24, 1996, at 1(Testimony of Lt. Gen Patrick Hughes, Director, DIA).

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efforts.[3] These military efforts will pave the way for the implementation of the civilian aspects of the Dayton Peace Accord including refugee repatriation, establishing complete freedom of movement, revitalizing the economy and restructuring the government.

The IFOR mission includes over 60,000 international troops, many of whom were transferred from UNPROFOR to IFOR control, and others which were newly deployed. Every NATO country with armed forces, as well as some non-NATO countries, including Russia, Egypt, Pakistan and Malaysia, participated.[4] The United States announced full IFOR deployment on February 16, 1996 at a level of 20,000 troops.[5] Of this total, 17,000 were deployed to Bosnia; 4,400 were posted in Hungary; and 2,100 in Croatia.[6]

Clinton Administration Support for United States Troops in IFOR.

During the war, the Clinton Administration had been reluctant to commit any United States ground troops to the UNPROFOR peacekeeping force. The Administration preferred to work with its NATO allies towards a negotiated settlement because "the United States could not force peace on Bosnia's warring ethnic groups."[7] Once the peace process among the warring

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[3] Steven Woehrel and Julie Kim, Bosnia-Former Yugoslavia and United States Policy, CRS Issue Brief IB91089, June 4, 1996, at 8 (hereinafter "CRS Report").

[4] NATO's Role in the Implementation of the Bosnian Peace Agreement, No. 11, NATO Fact Sheets, January 1996, World Wide Web at http://www.vm.ee/nato/docu/facts/fs11.htm.

[5] CRS Report at 12.

[6] Id.

[7] President William J. Clinton Addressing the Nation on National Interests in Bosnia, Nov. 27, 1995, at 4 (hereinafter "November 1995 Presidential Address").

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factions was underway, President Clinton said he would consider sending United States troops to take part in a multilateral peacekeeping mission in the event that all parties reached a negotiated settlement.[8]

As the parties moved toward the signing of the Dayton Accords, the President remained in close communication with Congress and the nation about the potential deployment of United States troops. On November 13, 1995, President Clinton sent a letter to the leadership pf the House of Representatives outlining the sequence of events that led to the formation of IFOR and United States interests in participating in such a force.[9] On November 27, the President delivered a televised address to the nation outlining national interests in Bosnia, and why United States participation in IFOR was essential to its success.[10] Clinton termed United States participation in IFOR as America's responsibility to "turn this moment of hope into an enduring reality" and claimed the United States could help "end the terrible suffering of the people, the warfare, the mass executions, the ethnic cleansing, the campaigns of rape and terror."[11] The President pledged that the IFOR mission would be clearly defined with realistic goals and that United States should "make the choice for peace."[12]

In a press conference following the signing of the Dayton Peace Accord on December 15,

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[8] Julie Kim, Bosnia and the 104th Congress: the Implementation Force (IFOR) and its Possible Successor, CRS Report 96-723, Aug. 29, 1996, at 3 (hereinafter "CRS IFOR Report").

[9] CRS IFOR Report at 9.

[10] Id.

[11] November 1995 Presidential Address.

[12] Id.

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1995, President Clinton pledged United States participation with other countries in implementing the terms of the peace agreement stating, "we will send you our most precious United States resource, the men and women of our armed forces."[13]

Congressional Action on Troop Deployment.

In the Congress, the emerging peace negotiations shifted the focus of debate from the arms embargo to the United States role in implementing the peace process. Much of the Congressional debate focused on whether a United States presence in the Balkans was a national security interest significant enough to justify any potential hazard that may befall United States troops and personnel stationed in Bosnia, and to offset the cost to the United States taxpayer of United States deployment.[14] Many Members of Congress were skeptical about the deployment and Congress debated a series of measures in the fall and winter of 1995 - both binding and non-binding - to impose parameters on United States troop contributions to IFOR.

Even while peace talks were underway in Dayton, the United States Congress was quick to take action to preclude the involvement of United States troops in any peacekeeping mission in the region. In the first of several debates on the issue the House of Representatives approved a resolution (H. Res. 247) on October 30 that stated there should not be "a presumption" by the parties to the peace talks that United States troops would participate in peace enforcement in

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[13] CRS IFOR Report at 12. See also Wolf Blitzer, Clinton Urges Warring Sides to Embrace Peace, CNN, Dec. 15, 1995 (discussing the United States role in IFOR).

[14] Congressional Record S15374 (daily ed. October 20, 1995) (statement of Senator John Warner).

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Bosnia.[15] This resolution also aimed to ensure that Congress would be a party to any decision of United States Armed Forces deployment, and noted that no troops should be deployed in the absence of a resolution passed by the Congress authorizing such action. The House adopted this resolution easily by a vote of 315-103. In November, the House considered legislation (H. Res. 2606) to prohibit funds for a United States peacekeeping mission in Bosnia.[16] Again, the legislation passed by a vote of 243-171.[17]

The Senate also was actively considering troop deployment measures. On December 13, 1995, the day before the formal signing in Paris of the Dayton Accord, and immediately prior to the scheduled deployment of United States forces, the Senate considered several measures. First, the Senate debated and adopted H. R. 2606, legislation the House passed the preceding month to prohibit funds to be obligated for United States troops in Bosnia, unless such funds were specifically authorized for that purpose. In an attempt to balance conflicting sentiments about the deployment, the Senate rejected a resolution (S. Con. Res. 35) that opposed President Clinton's decision to deploy troops to Bosnia, but also noted that "Congress strongly supports" the United States troops ordered there. Finally, the Senate approved a resolution (S.J. Res. 44) by a vote of 69-30 that had been offered by Senators Dole and McCain which stated Congress "unequivocally" supported the United States armed forces who would be sent to Bosnia to participate in IFOR, but did not formally authorize their deployment and set conditions and

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[15] CRS IFOR Report at 13.

[16] Id.

[17] Id.

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limitations on their involvement. The resolution included a requirement that the United States lead an effort to "equip and train" the Bosnian Government forces so that the newly established Bosnian-Croat Federation would be able to provide its own defense in the future.[18]

The House also was busy on December 13, 1995: three resolutions were debated. The House rejected H.R. 2770, to prohibit federal funds from being used for the deployment of United States troops on the ground in Bosnia. Immediately thereafter, the House passed H.Res. 304, which purported to support the United States troops in Bosnia but expressed opposition to the decision by the President to send them overseas. In effect, H.Res. 304 modified H.R. 2770 which would have cut off all funding for the American troops on the ground. After approving the resolution, the House rejected legislation sponsored by Rep. Hamilton (H. Res. 306) that "unequivocally" expressed support for the Armed Forces carrying out their mission in Bosnia.[19] Rep. Hamilton offered his resolution in order to express to the United States troops heading for Bosnia that regardless of congressional differences over the policy decision, Congress should "conclude on a unanimous vote [of] support of the troops."[20]

Information to Congress on Troop Deployment.

In response to Congressional concerns about United States ground forces deployed as part of the IFOR contingent, Secretary of State Christopher, Secretary of Defense Perry and

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[18] CRS IFOR Report at 14.

[19] Id.

[20] Cong. Rec. H14871(daily ed. December 13, 1994)(statement of Rep. Lee Hamilton).

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Chairman of the Joint Chiefs of Staff General Shalikashvili appeared at numerous hearings in October and November 1995 to assure Members of the House and Senate that United States participation in IFOR was necessary and that the United States was committed to minimize any potential threat to the troops.[21] For instance, when questioned about how the United States troops would be protected, General Shalikashvili responded that United States commanders have pursued "all available courses" to mitigate risks to United States troops.[22]

The Defense Intelligence Agency and the Joint Staff provided more than ten briefings regarding IFOR to Congress in both classified and unclassified formats.[23] The first briefings held in early November 1995, provided a thorough review of the IFOR mission, analyzed potential threats to IFOR and United States troops, discussed the intelligence support that would be provided to IFOR, and addressed the military equipment to be used to ensure that the risks to United States personnel were minimized. Although the Administration was attempting to sway skeptics in Congress, every briefing included a discussion of the threats to IFOR and how those threats would be minimized.

The threats of indirect fire, land mines, the presence of extremist elements including the

[21] CRS IFOR Report at 8.

[22] Notes of testimony of General Shalikashvili, Hearing on United States Policy Towards Bosnia before the House International Relations Committee Subcommittee on International Organization, Nov. 30, 1995.

[23] Notes of Department of Defense briefings to Congress: DIA, Joint Staff, Office of Under Secretary of Defense (Policy) Nov. 2, 1995 - Jan. 25, 1995 (hereinafter "DOD Briefings, Nov. 1995-Jan. 1996").

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Mujahideen[24], civil disorder, and hostage taking by independent elements were among those consistently discussed.[25] In classified briefings, Administration officials specifically addressed the threat posed by foreign Islamic groups - both military and intelligence - including those of Iran.[26] [redacted] The briefings continued throughout January 1996, after United States troops were deployed to IFOR in order to make sure Congress was informed of the most current information on the progress of the IFOR mission in Bosnia and the status of United States troop safety and activities.[28]

Dayton Agreement Provisions to Protect IFOR.

Consistent with the United States policy of isolating Iran, and in response to specific concerns about the safety of United States troops, the United States has been particularly diligent in making sure the Dayton signatories comply with the so-called "foreign forces" provision in the

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[24] The Mujahideen were loosely organized freedom fighters from a variety of Islamic countries, most of whom had served in the war in Afghanistan.

[25] DOD Briefings Nov. 1995-Jan. 1996.

[26] Notes of DIA Briefing to the Senate and House of Representatives on Bosnia, Jan. 5, 1995 (hereinafter "Joint Jan. 5, 1995 Briefing").

[27] [redacted]

[28] Id; Joint Jan. 5, 1995 Briefing.

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peace agreement.[29] This provision requires the removal of foreign forces from Bosnia, a catch-all phrase meant to include the volunteer Mujahideen forces, foreign Islamic fundamentalist forces, the Iranian military, and other extreme elements who had come to the region during the conflict to volunteer with the warring factions.

As leverage to ensure compliance with this provision, the United States has linked the removal of foreign forces, in particular Iranian volunteer forces, with the receipt of United States aid. This strategy has been successful, and although the Bosnian Government was slow to pressure the foreign fighters to leave their territory after the Dayton Agreement was signed, it has made significant strides in the ensuing months. On June 7, 1996, President Clinton provided certification that the number of foreign forces remaining in Bosnia was low enough to trigger the United States "equip and train program" to proceed.

[29] See Dayton Peace Agreement Article II of the Annex on Military Aspects, paragraph one, that states "All Forces in Bosnia and Herzegovina as of the date this Annex enters into force which are not local origin, whether or not they are legally and militarily subordinated to the Republic of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, or Republika Srpska, shall be withdrawn together with their equipment from the territory of Bosnia and Herzegovina within thirty days." Paragraph two reads in part, "all foreign Forces, including individual advisors, freedom fighters, trainers, volunteers, and personnel from neighboring and other States, shall be withdrawn from the territory of Bosnia and Herzegovina."

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CHAPTER FOUR
RESPONSE TO THE MAJORITY CONCLUSIONS REGARDING FALSE TESTIMONY, CLASSIFICATION AND EXECUTIVE PRIVILEGE

This Section does not seek to address the numerous factual and analytical errors, false claims, and inconsistencies in the Majority's report. Errors in the Majority's report are noted throughout the Minority views. This Section addresses three specific charges lodged by the Majority that the Administration impeded the progress of the Select Subcommittee's inquiry. The Majority report alleges that certain Executive Branch officials made false statements to the Subcommittee; it asserts that the Administration has manipulated the classification rules to hide embarrassing information; and it contends that the Administration improperly invoked executive privilege. The Minority is of the firm view that the Majority report is wrong on each of these points.

Referrals to the Department of Justice.

The most inflammatory aspect of the Majority report is its referral of certain matters to the Justice Department for further inquiry. The Majority asserts that several Executive Branch officials gave inconsistent testimony to the Select Subcommittee and suggests the possibility that some of these officials might have perjured themselves. This reckless allegation is wholly unsubstantiated. It casts aspersions on the character of dedicated public servants who performed their duties in difficult and at times dangerous circumstances for what we can only assume to be the Majority's short-term political advantage. With all due respect, the Minority regards these allegations as shameful.

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Because the testimony giving rise to the Majority's charge is itself classified, the Majority has denied those it is accusing the ability to defend themselves publicly until such time as the report is declassified. But it is possible to describe in general terms the Majority's principal allegation: that various participants have differing recollections of conversations that took place in the spring of 1994. This allegation does not remotely support a criminal inquiry. The statements identified by the Majority do not present real inconsistencies. Instead, they involve slightly varying recollections about nuances in conversations that took place more than two years ago. Certain participants do not recall the use of particular words or facial expressions in the conversations in question; others do. The Majority's suggestion that a perjury charge could be supported in such circumstances is absurd.

Making an unwarranted allegation of perjury does more than damage the reputations of dedicated officials. The Supreme Court has warned that "[o]ne consideration of policy overshadowed all others during the years when perjury first emerged as a common-law offense: that the measures taken against the offense must not be so severe as to discourage witnesses from appearing or testifying."[1] And in the particular setting of inter-Branch relations, courts have recognized that aggressive recourse to prosecution "would complicate future relationships between the two branches and thus could disrupt the orderly functioning of government. At a minimum, it could eventuate that the Executive officials would become more stilted and careful and less forthcoming than they otherwise might be."[2] Loose allegations like those made by the

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[1] Bronston v. United States, 409 U.S. 352, 359 (1973).

[2] United States v. Poindexter, 725 F. Supp. 13, 26 (D.D.C. 1989).

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Majority, which subject innocent persons to suspicion, loss of reputation, and great expense, ultimately will damage Congressional fact finding efforts. We trust that the Justice Department will dispose of this referral in short order.

The Rules of Classified Information.

The Majority asserts that the Administration has manipulated classification rules to hide damaging material. This is a very peculiar allegation. Much of the material cited in the Majority report involves foreign government information, intelligence activities, or the foreign relations of the United States, all areas that may be deemed classified.[3] And perhaps more fundamentally, it is the Majority that rushed to release its conclusions even before submitting its report to the Executive Branch for declassification. This tactic has allowed the Majority to make its most inflammatory charges in general and conclusiory terms, while using the classified nature of the underlying material to shield its allegations from close scrutiny. It therefore is not the Administration that is using the classified label to hide its dirty laundry.

In fact, the Clinton Administration has taken significant steps to rationalize the classification system and to avoid the rampant over classification that sometimes was undertaken by its predecessors.[4] In particular, as the Majority notes, the rules promulgated by the Administration preclude the classification of data simply to "prevent embarrassment to a person,

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[3] See Executive Order 12958 § 1.5(b), (c), (d) (Apr. 20, 1995).

[4] See Executive Order No. 12968 (Aug. 2, 1995); Executive Order No. 12958.

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organization, or agency."[5] The Minority expects that declassification of the report in this case will proceed expeditiously and with that important principle in mind. For the present, however, the Majority's accusation that the Administration is hiding behind classification rules is baseless -- and will remain untested until the Subcommittee's report is declassified by the appropriate agencies.

The Rules of Executive Privilege.

The Majority is incorrect in contending that the Executive Branch's assertion of executive privilege to limit the testimony of several senior officials of the National Security Council was somehow improper. Of course, the Minority agrees wholeheartedly that Congress has the right to seek information that is relevant to a legitimate legislative inquiry. At the same time, however -- although the Majority seems to suggest otherwise -- for at least some purposes the NSC is "an extension of the White House office" and serves as "the supporting staff to the President in the conduct of foreign policy."[6] Matters considered by senior NSC officials and presented to the President for decision therefore at least presumptively may be shielded by executive privilege.

As a consequence, the Majority is wrong in asserting that the reluctance of NSC officials to offer formal, sworn testimony is somehow unprecedented. In fact, the Majority appears to acknowledge that NSC officials have been summoned to offer formal testimony only with great infrequency, and then only in the context of inquiries into potentially criminal conduct. And the

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[5] Id. at § 1.8(2).

[6] OLC Opinion 78-50, Freedom of Information Act -- National Security Council -- Agency Status Under FOIA, 2 Op. OLC 197, 1978 OLC LEXIS 50, at *1 n.2.

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Majority is incorrect in contending that the criminal nature of those inquiries was irrelevant to the willingness of NSC personnel to testify.

The Supreme Court has noted the considerations that bear on the assertion of executive privilege. The Executive Branch's interest in resisting testimony is at its height where the inquiry touches on "military, diplomatic, or sensitive national security secrets," areas where "the courts have traditionally shown the utmost deference to Presidential responsibilities."[7] The interest in disclosure, on the other hand, is at its height where criminal conduct is alleged because "[t]he right to the production of all evidence at a criminal trial [itself] has constitutional dimensions."[8] That is particularly so because, as the Court has observed, one "cannot conclude that [presidential] advisers will be moved to temper the candor of their remarks by the infrequent occasions of disclosure because of the possibility that such conversations will be called for in the context of a criminal prosecution."[9] In the context of the Select Subcommittee's inquiry, where very sensitive matters of foreign policy are involved and where the investigation is not directed at criminal misconduct, those considerations indicate that the Executive Branch's interest in limiting disclosure is well-founded.

This is not to say that formal testimony by NSC officials may never be required. But it is plain that those officials may be called only when there is a persuasive showing of compelling

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[7] United States v. Nixon, 418 U.S. 683, 706, 710 (1974).

[8] Id. at 711.

[9] Id. at 712.

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need for the testimony.[10] There was no such showing here. The Administration's assertion of executive privilege had no material effect on the conduct of the Select Subcommittee's inquiry. Virtually all officials contacted by the Subcommittee either testified or provided information in less formal settings.[11] All of these officials were forthcoming. While NSC personnel were not sworn, their accounts were in every case consistent with those of witnesses who testified under oath.[12] The Majority thus is unable to identify any area in which the Subcommittee's inquiry was hindered by the Executive Branch's limited invocation of executive privilege.

The assertion of privilege by NSC officials therefore was nothing out of the ordinary. Indeed, it is worth noting that CIA personnel -- who are praised by the Majority for their cooperation with the Subcommittee -- on several occasions asserted the executive and deliberative process privileges to cut off the Subcommittee's lines of inquiry. We do not say this to criticize the Agency, which is understandably reluctant to disclose its internal deliberations on very sensitive matters. It is plain, however, that the Majority's complaints in this area turn entirely on whose ox is being gored.

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[10] See Nixon, 418 U.S. at 713-714.

[11] The only exception is Defense Secretary Perry, who would have had very little of relevance to say in any event.

[12] In this regard, the Minority notes that Deputy Secretary of State Talbott and Undersecretary Tarnoff voluntarily testified under oath, even though their prior arrangements with the Subcommittee called only for unsworn testimony.

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Appendix A

KEY NAMES

Christopher, Warren	U.S. Secretary of State
Cengic, Hasan	Bosnian Deputy Minister of Defense; Known Arms Dealer
Delic, Hazim	Commander of the Bosnian Government Army
Deutch, John	Director, Central Intelligence
Granic, Mate	Croatian Foreign Minister
Hurd, Douglas	Former British Foreign Secretary
Izetbegovic, Alija	President of Bosnia Herzegovina
Juppe, Alain	Former French Foreign Minister; Current French Prime Minister
Karadzic, Radovan	Bosnian Serb leader
Khamenei, Ayatollah	Supreme Leader of Iran
Milosevic, Slobodan	President of Serbia
Mladic, Ratko	Commander of the Bosnian Serb Army
Omerbasic, Imam Sveko	Leader of the Muslim Community in Croatia
Owen, Lord David	Former EC Mediator and Co-Chairman of the Peace Conference on the Former Yugoslavia
Perry, William	U.S. Secretary of Defense
Rafsanjani, Ali Akbar Hashemi	President of Iran
Rose, Sir Michael	Commander of UNPROFOR 1994-1995
Slajdzic, Haris	Former Prime Minister of Bosnia Herzegovina
Susak, Gojko	Croatian Defense Minister
Susak, Djurdja	Senior Official in the Croatian Intelligence Ministry
[redacted]	Croatian Intelligence Chief
Tudjman, Franjo	President of Croatia
Turkovic, Biserka	Bosnian Ambassador to Croatia
Vance, Cyrus	Former UN Envoy and Co-Chairman of the Peace Conference on the Former Yugoslavia
Velayati, Ali Akbar	Iranian Foreign Minister

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Appendix B

ACRONYMS

BSA	Bosnian Serb Army
BTF	Balkan Task Force, CIA
[redacted]	[redacted]
CIA	Central Intelligence Agency
COM	Chief of Mission
COS	Chief of Station
CRS	Congressional Research Service
DATT	Defense Attache
DCI	Director of Central Intelligence
DCM	Deputy Chief of Mission
DDCI	Deputy Director of Central Intelligence
DDI	Deputy Director of Intelligence, Central Intelligence Agency
DDO	Deputy Director of Operations, Central Intelligence Agency
DIA	Defense Intelligence Agency
DOD	U.S. Department of Defense
EAC	Emergency Action Committee
EU	European Union (formerly the European Community or EC)
FRY	Federal Republic of Yugoslavia (Serbia and Montenegro)
FY	Fiscal Year
HVO	Croatian Defense Army
ICO	Islamic Conference Organization
ICR	Intelligence Community Representative
IFOR	Implementation Force
IOB	Intelligence Oversight Board
JNA	Yugoslav People's Army
MID	Military Intelligence Daily
NATO	North Atlantic Treaty Organization
NID	National Intelligence Daily
NSA	National Security Agency
NSC	National Security Council
OCSE	Organization for Security and Cooperation in Europe (formerly Conference for Security and Cooperation in Europe or CSCE)
OGC	Office of the General Counsel, CIA
PAO	Public Affairs Officer
RSO	Regional Security Officer
TDY	Temporary Duty Assignment
UN	United Nations
UNHCR	United Nations High Commission for Refugees
UNPROFOR	United Nations Protection Force
UNSC	United Nations Security Council
USDS	U.S. Department of State

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Appendix C

DEPOSITIONS AND INTERVIEWS CONDUCTED BY SELECT COMMITTEE

Subject	Date	Deposition or Interview	Relevant Position
Anderson, Mark	9/11/96	Interview	Former U.N. Fire and Emergency Medical Services, Sarajevo
Andres, Janet	9/30/96	Deposition	Former Special Assistant to former DCI Woolsey
Baker, Terri Lee	8/19/96	Interview	Current Secretary to Ambassador Galbraith, Former Secretary to DCM Neitzke
Baron, Frederick	8/28/96	Interview	Former Coordinator of Inter-Agency Task Force on Serbian/Montenegran Sanctions
Bartholomew, Reginald	9/30/96	Deposition	Former Special Envoy to Former Yugoslavia
Berger, Samuel	9/25/96	Deposition	Deputy Assistant to the President for National Security Affairs
Burkhart, Robert	8/14/96	Interview	Former Communications Program Officer, USDS, Pakistan
Butler, Larry	9/19/96	Deposition	Former DCM, Belgrade
Caudle, Robert	9/4/96	Interview	Assistant General Counsel, CIA
Clark, General Wesley	9/4/96	Deposition	Former J-5, Director of Strategic Plans and Policy on the Joint Staff
Comfort, Peter	9/4/96	Interview	Legal Advisor to the Central Eurasian Division, CIA
DiConcini, Dennis	10/2/96	Interview	Former Chairman, Senate Select Committee on Intelligence
Djuric, Duska	8/21/96	Interview	Protocol Assistant, Embassy Zagreb
Donilon, Thomas	9/12/96	Deposition	Assistant Secretary of State for Public Affairs and Chief of Staff
Finn, Robert	8/18/96	Interview	DCM, Zagreb

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Subject	Date	Deposition or Interview	Relevant Position
Foley, Thomas	9/13/96	Interview	Former Speaker of the US House of Representatives
Galbraith, Peter	8/19/96	Deposition	U.S. Ambassador to Croatia
Goldberg, Philip	8/23/96	Interview	Former Desk Officer for Bosnia at USDS, DC
[redacted]	[redacted]	[redacted]	[redacted]
Harrington, Anthony	7/25/96	Interview	Chairman of President's Intelligence Oversight Board
Herrick, Colonel Richard	8/20/96	Deposition	Former DATT, Embassy Zagreb
Hill, Christopher	8/14/96	Interview	Former Deputy Director of Eastern European Affairs, Former Director of South Central European Affairs, the Balkans, USDS.
Hoh, Christopher	8/23/96	Interview	Former Croatia Desk Officer in South Central European Affairs at USDS
Holbrooke, Richard	9/27/96	Deposition	Former Assistant Secretary of State for European Affairs
Holtzapple, Richard	8/20/96	Deposition	Former Political Officer, Embassy Zagreb
Hovenac, Susan	8/14/96	Deposition	Former Public Affairs Officer, Embassy Zagreb
Hunt, Swanee	8/13/96	Interview	U.S. Ambassador to Austria
Hunter, Robert	9/20/96	Deposition	U.S. Ambassador to NATO
Jackovich, Victor	8/20/96	Deposition	Former U.S. Ambassador to Bosnia
[redacted]	[redacted]	[redacted]	[redacted]
Klemp, Stephen	8/5/96	Interview	Former Chief of Political Section, Embassy Zagreb
Lake, Anthony	9/26/96	Deposition	Assistant to the President for National Security Affairs
MacEachen, Douglas	9/6/96	Deposition	Former Deputy Director for Intelligence
Michel, Robert	9/12/96	Interview	Former Minority Leader, US House of Representatives

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Subject	Date	Deposition or Interview	Relevant Position
Mittnacht, Thomas	8/14/96	Deposition	Former Political/ Economic Officer and Notetaker, Embassy Zagreb
Monjo, John	8/14/96	Interview	Former Ambassador to Islamabad, Pakistan
Neitzke, Ronald	8/7/96	Deposition	Former DCM, Embassy Zagreb
Pazdral, Ronna	8/19/96	Interview	Administrative Officer, Embassy Zagreb
Perina, Randolf	8/26/96	Deposition	Former Charge to Belgrade
Pitzer, Shane	8/30/96	Interview	Former Detachment Commander, US Marine Guard, Embassy Zagreb
Ray, Susan	8/13/96	Interview	Former Secretary to the Ambassador, Vienna, Austria
Redman, Charles	8/27/96	Deposition	Former Special Envoy to Former Yugoslavia
Rizzo, John	9/4/96	Interview	Senior Deputy General Counsel, CIA
Root, William	8/18/96	Interview	RSO, Zagreb
Sadler, Colonel Richard	8/21/96	Deposition	DATT, Embassy Zagreb
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
Sray, John	8/28/96	Deposition	Former Intelligence officer to UNPROFOR
Stottman, Charlotte	8/10/96	Deposition	Former Secretary to Ambassador Galbraith
Swigert, James	8/23/96	Interview	Former DCM, Embassy Belgrade
Talbott, Strobe	9/5/96	Deposition	Deputy Secretary of State
Tangney, Mildred	8/14/96	Interview	Former Secretary to the Ambassador, Islamabad, Pakistan
Tarnoff, Peter	9/13/96	Deposition	Under Secretary of State for Political Affairs

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Subject	Date	Deposition or Interview	Relevant Position
[redacted]	[redacted]	[redacted]	[redacted]
Vershbow, Alexander	8/8/96	Deposition	Former Deputy Assistant Secretary of State
Vershbow, Alexander	9/24/96	Interview	Special Assistant to the President and Senior Director, Central and Eastern European Affairs, National Security Council
Walker, Jerome	8/21/96	Interview	Former Sr. Directorate for Europe, NSC
Weston, Thomas	8/14/96	Interview	Former Deputy Assistant Secretary of State for European and Canadian Affairs
Wilcox, Philip	8/14/96	Interview	Coordinator for Counter terrorism, USDS/ Principal Deputy Assistant Secretary to the Bureau of Intelligence and Research
Wolf, John	8/14/96	Interview	Former U.S. Ambassador to Malaysia
Woolsey, James	9/13/96	Deposition	Former Director, Central Intelligence
Zapatakis, Kathryn	9/30/96	Deposition	Former TDY Secretary to Ambassador Galbraith

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Appendix D

SELECTED CONGRESSIONAL ACTIVITY RELATING TO THE UN ARMS EMBARGO

Bill No.	Bill Title	Relevant Action	Outcome
HR 5368	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993	*During consideration of this bill, the Senate Foreign Relations Committee approved an amendment offered by Senator Biden to transfer defense articles from DOD stocks to the Bosnian government, pursuant to the lifting of the arms embargo.*	10/6/92 Signed into Law (PL 102-391)
HR 2295	Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1994	*This legislation contained language that was enacted in the prior year's appropriations bill authorizing the President to transfer DOD stocks to Bosnia, pursuant to a lifting of the UN arms embargo.*	9/30/93 Signed into Law (PL 103-87)
HR 2333	State Department, USIA, and Related Agencies Authorization Act, Fiscal Years 1994 and 1995	*In the House, the Foreign Affairs committee added a provision offered by Rep. Hyde that stated that the "President may terminate the US arms embargo of the Government of Bosnia-Hercegovina upon receipt from that government a request for assistance in exercising its right of self-defense"*	4/30/94 Signed into Law (PL 103-236)
S 2042	An act to remove the United States arms embargo of the Government of Bosnia and Hercegovina	*This legislation stated that "neither the President nor any other member of the Executive Branch of the US Government shall interfere with the transfer of arms to the Government of Bosnia and Herzegovina."* 5/12/94 Mitchell amendment to direct the President to seek a multilateral lift of the arms embargo passed 50-49 5/12/94 Dole-Lieberman amendment mandating the termination of the embargo passed 50-49	Referred to House Committee

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Bill No.	Bill Title	Relevant Action	Outcome
HR 4301	A bill to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1995, and for other purposes	*During House floor consideration, the House adopted an amendment that was termed the Bosnia and Hercegovina Self-Defense Act of 1993, offered by Reps. McCloskey, Gilman, Bonior and Hoyer.* 6/9/94 House passes McCloskey/Gilman amendment to direct the President to terminate the arms embargo by a vote of 244-178 6/9/94 House rejects Hamilton amendment offering a possible lifting of the arms embargo among options to a negotiated settlement by a vote of 242-181.	Merged with S 2182
HR 4426	FY 95 Foreign Operations Appropriations	*This legislation contained language that DOD weapons stocks would be released to Bosnia pursuant to a multilateral or unilateral lifting of the arms embargo.*	8/23/94 Signed into law (PL. 103-306)
S 2182	An act to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense programs of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes	*During the Senate debate, an amendment to propose the termination of the arms embargo, if the Bosnian Serbs do not meet certain conditions, was passed, while an amendment to unilaterally lift the arms embargo failed by a tie vote.* 7/1/94 Senate adopted a Nunn-Warner amendment to authorize US military assistance only if the arms embargo is lifted by the UN Security Council by a vote of 52-48 7/1/94 Senate rejected a Dole-Lieberman amendment mandating a unilateral lift of the embargo 50-50	10/5/94 Signed into Law (PL 103-3370

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Bill No.	Bill Title	Relevant Action	Outcome
HR 4650	A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes	*The conference committee on S 2182, adopted language requiring that no US funds be used to enforce the arms embargo after 11/15/94, the so-called "Nunn-Mitchell" provision.* 8/11/94 Senate considered Dole/ Lieberman amendment requiring a unilateral lifting of the embargo which passed 58-42 8/11/94 Nunn/Mitchell amendment passed 56-44, that required that no US funds may be used for international efforts to enforce the arms embargo.	103-335
HR 1561	A bill to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal years 1996 and 1997; to responsibly reduce the authorizations of appropriations for United States foreign assistance programs for fiscal years 1996 and 1997, and for other purposes	*During House consideration of the bill, an amendment requiring the unilateral lift of the arms embargo was adopted.* 6/8/95 House passes amendment requiring the President to unilaterally lift the UN arms embargo by vote of 318-99.	4-12-96 Vetoed by President 4-30-96 Veto Override Failed in House by vote: 234 - 188 (Vote 136)
S 21	An act to terminate the United States arms embargo applicable to the Government of Bosnia and Herzegovina	7/18/95 Dole offered a substitute amendment to allow the President to postpone the implementation of the lifting of the embargo beyond the deadline in the bill, if he informs congress 7/26/95 Passed Senate by vote of 69-29 (vote 331)	8/11/95 Vetoed by President.

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Appendix E

DATES OF ARTICLES APPEARING IN THE NATIONAL INTELLIGENCE DAILY REFERRING TO ACTUAL OR PROPOSED ARMS SHIPMENTS IN VIOLATION OF THE UNITED NAITONS ARMS EMBARGO

1994
January 22, 1994
February 7, 1994
March 16, 1994
April 4, 1994
April 27, 1994
April 30, 1994
May 3, 1994
May 5, 1994
May 14, 1994
May 19, 1994
May 21, 1994
June 11, 1994
June 15, 1994
July 19, 1994
July 23, 1994
August 17, 1994
September 3, 1994
September 13, 1994
September 20, 1994
September 27, 1994
November 3, 1994
November 15, 1994

1995
February 25, 1995
May 5, 1995
June 2, 1995
June 10, 1995
June 23, 1995
July 7, 1995
July 24, 1995
July 31, 1995
August 11, 1995
September 1, 1995
October 3, 1995
November 17, 1995
December 11, 1995
December 28, 1995

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Appendix F

SELECTED LIST OF MAJOR PRESS ARTICLES REGARDING LEAKS IN THE UN ARMS EMBARGO

Date	Source	Article
8 23 92	*New York Times*	Degree Varies as Arabs Assist Bosnia's Muslims
9 10 92	*Los Angeles Times*	Iranian Effort to Send Bosnia Arms Reported
9 10 92	*New York Times*	Iran Said to Send Arms to Bosnians
9 10 92	*Washington Post*	Iran Supplies Arms to Croatia. US Says
9 11 92	*Washington Times*	Croatia Seizes Arms on Iranian Plane on a Tip from US
11 3 92	*Christian Sci. Monitor*	Islamic States Concern for Bosnia
12 1 92	*Los Angeles Times*	Islamic National to Press for Military Aid to Bosnia
4 14 94	*Washington Post*	U.S. is Allowing Iran to Arm Bosnian Muslims
4 15 94	*New York Times*	U.S. Looks Away as Iran Arms Bosnia
5 13 94	*Washington Post*	Iran Ships Explosives to Bosnian Muslims
5 13 94	*AP*	Bosnian Army Official Confirms Receiving Arms Shipments from Iran
5 14 94	*Reuters*	Iran Ships Material For Arms to Bosnians Report
5 14 94	*New York Times*	Iran Said to Violate Embargo
5 15 94	*Washington Post*	Iran's Coup in Europe
5 16 94	*Washington Post*	Greece, Macedonia Said to Skirt Sanctions; UN Observers Report Banned Goods Flowing in to Yugoslavia
6 2 94	*Washington Times*	Iranians Move into Bosnia to Terrorize Serbs
6 24 94	*Washington Times*	Iranian Weapons Sent Via Croatia
7 2 94	*Reuters*	Arms are Reaching Bosnia Via Croatia, Paper Says
8 2 94	*Washington Times*	Iran Uses Russian Planes to Supply Bosnian Muslim, Croatian Troops
9 4 94	*Washington Times*	Bosnians Sought Help from Iran
11 5 94	*New York Times*	Arms Trafficking to Bosnia Goes on Despite Embargo
11 11 94	*New York Times*	Getting Serious on Bosnian Arms
4 15 95	*New York Times*	U.S. Looks Away as Iran Arms Bosnia

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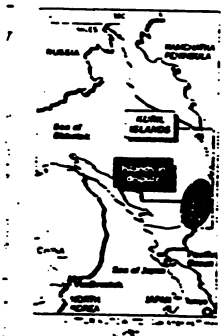
Iran Reported Trying to Send Arms to Bosnia

By [illegible]

A [illegible] Iranian [illegible] secretly unloaded [illegible] tons of [illegible] 4,000 machine guns and [illegible] million rounds of ammunition at a Croatian airport last weekend in an apparent attempt by the Islamic state to smuggle weapons to Muslim forces in Bosnia-Herzegovina, according to U.S. officials.

The shipment was one of the most brazen efforts yet to circumvent a year-old U.N. arms embargo in the region. It has intensified concern that Iran and other nations could fuel an already explosive conflict by giving new firepower to the Bosnian Muslims who are battling Serbian forces for control.

Please see IRAN, A3



main backers of the government, Supreme Soviet, legislature and Security Council.

Most significantly, the action immediately followed a Security Council session that, judging by statements from Yeltsin's press secretary, Vyacheslav V. Kostikov, must have been rather calm and collected.

A statement from the Interfax press service assured Japan and South Korea that the meeting's main [illegible] has not affected the good neighborly character of relations with those countries.

But almost right away Japanese sources began to voice keen displeasure and shock at the public [illegible] probably also be affronted by the cancellation of Yeltsin's audience with the emperor, which is a grave breach of court protocol.

"Yeltsin has given the welfare [illegible] and TV commentator in Tokyo said.

Dahlburg reported from Moscow and Watanabe reported from Tokyo.

IRAN: Bosnia Arms Shipment

Continued from A1

of the former Yugoslavia and [illegible]

U.N. officials [illegible] the arms shipment [illegible] Croatian authorities permitted them to [illegible] the U.S. sources said. But one source said that Croatian officials were permitted the flight only after an air force official and the Zagreb airport director had [illegible] involved in the scheme.

A senior official [illegible] State Department [illegible] the shipment was dispatched by the Iranian government, which has expressed support for the Muslim-led Bosnian regime. Officials describe the Bush Administration as deeply troubled by the episode, which one source called a "textbook" case of government violation of the U.N. embargo.

"We don't need more weapons in Bosnia," one U.S. official said. "More arms are not going to help reduce the level of tension and violence and bloodshed."

The United States has not yet asked a formal protest of Iran's suspected action, a State Department official said, but the U.N. Security Council could take action against Iran after reviewing formal notification of the incident.

The episode, which appears to [illegible] and the suspicion that Islamic nations are providing arms to Bosnian Muslims, raises new questions about the ability of the United Nations to maintain sanctions over the long term in the face of such defiance.

U.S. officials said the news of the Iranian cache is not to be construed as [illegible] Bosnian Muslims, other than the small amount [illegible] last weekend and sent to the Zagreb airport by [illegible]

[illegible] force many [illegible] and [illegible] of [illegible] U.S. officials [illegible] training for the Bosnian [illegible] Bosnia [illegible]

The recent [illegible] of [illegible] of which were [illegible] classified [illegible] as [illegible] of the increasingly complicated [illegible] the bloody conflict [illegible] has flamed [illegible] and [illegible]

The Bosnian Muslims are [illegible] outmanned and outgunned by their Serbian [illegible] while [illegible] and [illegible] with machine guns [illegible] and artillery from the [illegible] units of the former Yugoslav army. At a recent conference in Lisbon, [illegible] Islamic nations [illegible] that the [illegible] U.N. embargo left Bosnia's [illegible] forces "have only [illegible] arms or [illegible] above to defend [illegible]"

The German government and former British Prime Minister Margaret Thatcher [illegible] have called for the lifting of the [illegible] ban of arms sales to Bosnia. But the United States and most of its European allies [illegible] [illegible] situation [illegible] the embargo as a means of [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

Although recent [illegible] [illegible] Iranian [illegible] [illegible] [illegible] [illegible] American [illegible] [illegible] [illegible] of Bosnian forces, the Bush Administration has emphasized its [illegible] [illegible] both [illegible] [illegible] [illegible] [illegible] to [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

Weather
Today: Mostly sunny, windy. [illegible] High 71. Low [illegible]. Wind northwest 15-20 mph. Saturday: Mostly sunny, warmer. High 78. Low 56. Wind 0-12 mph. Yesterday: Temp. range 54-73. AQI. 50. Details on Page C2.

The Washington Post

117TH YEAR ···· No. 159 · FRIDAY, MAY 13, 1994

Iran Ships Explosives To Bosnian Muslims

Embargo-Busting Cargo Also Aids Croatia

By John Pomfret
Washington Post Foreign Service

SARAJEVO, Bosnia, May 13—An Iranian air force transport plane, loaded with at least 60 tons of explosives and other raw materials for weapons production, landed in Zagreb last week as part of a deal between Croatia and Bosnia to renew military cooperation against the Serbs, Western and Bosnian sources say.

The May 4 arrival of the Boeing 747 [illegible] plane in Croatia's capital marked a conspicuous violation of the arms embargo, imposed by the U.N. Security Council on Yugoslavia and its former republics in September 1991. Coming two days before a visit to Bosnia and Croatia by Iranian Foreign Minister Ali Akbar Velayati, it sent a strong signal of Iran's endoring commitment to Bosnia's Muslims and its desire to influence events in the region.

Velayati presented Bosnian President Alija Izetbegovic with a check for $1 million and a chit for 10,000 tons of diesel fuel. Izetbegovic responded with what appeared to be a thinly veiled statement of thanks for Iran's military support.

"While we cannot tell all the details now," he told reporters, "we must understand that our fight for freedom . . . would be less successful without Iran and its aid."

The shipment, which foreign diplomats and Bosnian Muslim sources said was intended as the first in a series of weapons-related transfers from Iran, also provides a potent illustration that despite Western efforts, the long-criticized arms embargo on Bosnia and Croatia has sprung leaks. With the recent rapprochement between Croatia and Bosnia, several senior Western officials said they believe these leaks could turn into a stream. Industry consult weapons from Brazil and a Chilean-made antitank gun are among the other items turning up in Bosnia. Whether such weapons will be able to change the course of the war remains an open question.

The brazen delivery of the raw materials for ammunition production at the most active airport in the Balkans comes at a time when debate over the U.S. stance on the arms embargo has been reloaded by today's narrow Senate passage of two amendments, one directing the ad-

See BOSNIA, A43, Col. 1

Conflicting Directives In Senate

Votes Oppose Arms Embargo

By Helen Dewar
Washington Post Staff Writer

The Senate yesterday issued contradictory directives to the Clinton administration on ending the arms embargo against Bosnia, dramatizing its own ambivalence even as senators were denouncing the administration for failing to pursue a coherent policy in the Balkans.

In back-to-back votes of 50 to 49, the Senate first directed President Clinton to seek allied support for a multilateral lifting of the United Nations-imposed embargo and then approved language to force an immediate unilateral lifting of the weapons sales ban by the United States.

Both were included—with equal billing—in legislation that senators last night passed and sent to the House, where prospects for approval appeared dim.

"We give clear guidance, except when we change our minds," said Sen. John Glenn (D-Ohio), an opponent of unilateral action, in trying to explain the seemingly garbled message the Senate was sending to the world about how to end the bloody strife in Bosnia.

The Senate again demonstrated its "impatience" in attempting to provide direction on foreign policy and was "sending an uncertain trumpet in a cars of three suffering in Bosnia," said Sen. John W.

See SENATE, A43, Col. 1

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Iranian Air Cargo Opens New Arms Route for Bosnia's Muslims

BOSNIA, From A1

administration to lobby its allies to lift the U.N. embargo and the other to break it unilaterally.

Advocates of lifting the weapons embargo say Bosnia, as a country recognized by the United Nations, is entitled to self-protection under Article 51 of the U.N. Charter. Currently Serb forces occupy about 70 percent of the country while the Muslim-led government and Croats hold the remainder.

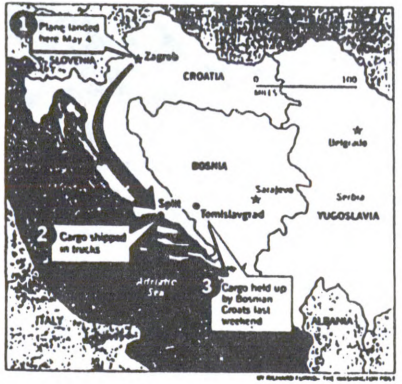
Critics of such a move, however, argue that the supply of weapons to Bosnia would be too little too late for the outgunned Muslim forces and could result in another round of Serb attacks on civilians, besieged cities, "ethnic cleansing" and war crimes equal to the horrors already visited on the Bosnian people.

In addition, even supporters of Bosnia's Muslims wonder if the mostly Muslim Bosnian army, albeit better trained and equipped than the ragtag force organized about two years ago, could improve itself rapidly enough to counter the formidable arsenal of the Bosnian Serbs. Compared with the Muslims' handful of tanks, for example, the Serbs are believed to possess at least 300, and each time they lose one it is replaced by their patrons in neighboring Serbia from the former Yugoslav national army, once the fourth-biggest standing army in Europe and a major weapons producer in its own right.

Muslim officers, however, say that even the small amount of weaponry entering Bosnia already has improved things for them.

"Tanks are not a problem for us anymore," contended one high-ranking Muslim officer, citing recent battles around the northeastern towns of Teocak, Kladanj and Olovo, where Muslim forces claimed to have pushed Serb troops back. The officer brushed off the recent Muslim defeat in Gorazde, spearheaded by a Serb tank assault.

Throughout the war, moreover, the Muslims have succeeded in producing ammunition and some weapons in plants throughout central Bosnia, in Konjic, Novi Travnik and Zenica. In Sarajevo, much of the ammunition production takes place in basements of private houses, although at least one factory is known to operate, producing mortar shells.



According to Bosnian and Western sources, the Iranian air force plane arrived in Zagreb early May 4 carrying 40 containers of explosives, fusing equipment and other raw materials for the production of mortars and different types of ammunition. The boxes were marked "Humanitarian Aid" and "No Smoking." Croatia's Defense Ministry denied that the goods were weapons-related.

Croatian Interior Ministry personnel surrounded the plane, witnesses said, adding that it was similar to an Iranian aircraft that attempted to deliver weapons to Bosnia's Muslim fighters in September 1992. That cargo plane reportedly landed with 4,000 machine guns and 1 million rounds of ammunition, but U.S. officials confronted Croatian authorities and persuaded them to impound the arms.

The first plane's cargo was held in Zagreb because relations between Croatia and the Bosnian government were deteriorating rapidly, leading to arguments over who would get how many guns. Less than a month later, fighting between Croats and Muslims erupted in the central Bosnian town of Prozor.

Last week no such problems occurred. The plane was unloaded quickly and the cargo taken in Croatian trucks to the Adriatic coast, where it was transferred to a Bosnian government convoy headed for central Bosnia.

The reasons for the change, according to participants in the talks, involve a strange interplay between U.S. and Iranian policy in the region.

Under an accord hammered out in Washington in March, Bosnia's Croat and Muslim factions agreed to stop their year-long war and form a federation with a joint government and, significantly, a joint military command. They also agreed to link their federation loosely to Croatia. Bosnian military sources said these agreements, bolstered by another accord signed in Zagreb weeks later, set the basis for renewed cooperation on embargo busting.

"Sometimes the military moves faster than the politicians," said Brig. Gen. Fikret Muslimovic, a Bosnian Muslim who heads his government's task force on uniting the two armies.

Cooperation was strengthened further in late April, when Croatian Prime Minister Nikica Valentic led a delegation to Tehran and signed an agreement with Iran to facilitate the delivery of "humanitarian and technical assistance to the Bosnian people," according to a foreign diplomat familiar with those talks.

According to Bosnian sources, Bosnia's Muslims took two-thirds of the May 4 shipment while Croatia received one-third, although other sources disputed the cut. Bosnia's Croats were not given anything immediately, but the assumption was that Croatia would funnel some to them later.

In a bizarre twist, however, when the convoy of Bosnian government trucks carrying the raw materials reached Croat-held Tomislavgrad in southwestern Bosnia, radical Croat nationalists held it up, demanding their share of the goods, sources said. On Tuesday, Bosnian officials telephoned the U.S. Embassy in Vienna where Bosnian Croats and Muslims were negotiating the terms of the federation.

The callers wanted an American diplomat to sort out the problem, but when that proved impossible, they appealed to Croatian officials to intercede, and the roadblock was lifted.

"This is the first weapons-related convoy from the highest level since the war began," said a Bosnian military source. "It is a groundbreaker. We're hoping for more."

Original from PENN STATE

Weather

The Washington Post

117th Year .... No. 139 FRIDAY, MAY 13, 1994

Iran Ships Explosives To Bosnian Muslims

Embargo-Busting Cargo Also Aids Croatia

By John Pomfret

SARAJEVO, Bosnia, May 12—An Iranian air force transport plane, loaded with at least 60 tons of explosives and other war materials for weapons production, landed in Zagreb last week as part of a deal between Croatia and Bosnia to ignore military cooperation against the Serbs, Western and Bosnian sources say.

The May 4 arrival of the Boeing 747 cargo plane in Croatia's capital marked a conspicuous violation of the arms embargo imposed by the U.N. Security Council on Yugoslavia and its former republics in September 1991. Coming two days before a visit to Bosnia and Croatia by Iranian Foreign Minister Ali Akbar Velayati, it sent a strong signal of Iran's deepening commitment to Bosnia's Muslims and its desire to influence events in the region.

Velayati promised Bosnian President Alija Izetbegovic cash a check for $1 million and a shot for 10,000 tons of desired food. Izetbegovic responded with what appeared to be a thinly veiled assessment of thanks for Iran's military support.

"While we cannot tell all the details now," he told reporters, "we must understand that our fight for freedom . . . would be less successful without Iran and its aid."

The shipment, which foreign defense and Bosnian Muslim sources said was intended as the first in a series of weapons-related transfers from Iran, also provides a potent illustration that despite Western efforts, the long-criticized arms embargo on Bosnia and Croatia has spring leaks. With the recent rapprochement between Croatia and Bosnia, several senior Western officials said they believe these leaks could turn into a stream, bringing enough weapons from Herald and Christmas to outfit three new Bosnian army corps and the other forces serving up in Bosnia. Whether such weapons will be able to change the course of the war remains an open question.

The Iranian delivery of the new materials for ammunition production at the time raises urgent questions about the U.S. stance on the arms embargo has been reinforced by today's narrow Senate passage of two amendments, one directing the ad-

See BOSNIA, A43, Col. 1

Conflicting Directives In Senate

Votes Oppose Arms Embargo

By Helen Dewar

The Senate yesterday issued contradictory directives on the Clinton administration on ending the arms embargo against Bosnia, demonstrating its own ambivalence even as senators were denouncing the administration for "failing to pursue a coherent policy" in the Balkans.

In back-to-back votes of 50 to 49, the Senate first directed President Clinton to seek allied support for a multilateral lifting of the United Nations-imposed embargo and then approved language to leave an unconditional option open for the weapons shipments by the United States.

Both were included—each equal billing—in legislation that senators last night passed and sent to the House, where prospects for approval appeared dim.

"We gave [the] President support when he changes and attacks," said Sen. John Glenn (D-Ohio), an opponent of unilateral action. In trying to explain the inexplicably garbled messages the Senate was sending to the world about how to end the bloody strife in Bosnia.

The Senate again demonstrated its "inexplicable" propensity to provide Congress' foreign policy and was branding an uncertain trumpet on days of those seeking an "Bosnia," said Sen. John W.

See SENATE, A43, Col. 1

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Senate Backs Contradictory Proposals on Bosnia Polic

WASHINGTON POST, Friday, A1

Warner (R-Va.), who voted against both proposals.

To the extent that there was any meaning, the votes signaled that the Senate is as strong as ever in support for ending the embargo but sharply divided over whether the United States should go it alone or continue to press for joint action by NATO countries to lift the ban on arms sales to the Muslim-led Bosnian government.

The closeness of the votes also indicated that the Senate Democratic leadership was stretched to the limit — with no room to spare — to contain frustration over administration handling of foreign policy, especially in the Balkans.

The votes followed a hard-hitting debate in which many senators, mostly Republicans, criticized Clinton's Bosnia policy in unusually strident terms. Sen. Orrin G. Hatch (R-Utah) called it "morally and politically bankrupt," and Sen. John McCain (R-Ariz.) said the United States is nearing the point where its word is not "worth the toilet tissue the administration uses to make its worthless promises."

Senate Majority Leader Robert J. Dole (R-Kan.) said the vote showed that patience over Bosnia policy was running out on Capitol Hill and that legislation to lift the embargo would be passed unless the administration wins allied support for a joint lifting of it in the next two to three weeks.

Majority Leader George J. Mitchell (D-Maine) put a different spin on what [illegible] say is that the Senate favors an end to the embargo but is equally divided as to how to do it, and the result I think is that the votes will not have a significant effect.

The proposal to force the administration to end the embargo drafted by Dole and Sen. Joseph I. Lieberman (D-Conn.) appeared to be rolling toward quick approval until Mitchell, working with the administration, put together an alternative that got all enough Democrats to pass.

The Mitchell plan authorizes U.S. airstrikes to help implement NATO efforts in protecting safe areas in Bosnia and directed Clinton to seek immediate agreement of NATO allies and approval of the U.N. Security Council to end the embargo, which was imposed on all of the former Yugoslavia by the United Nations a year. If those efforts failed, Clinton would have to "consult with Congress regarding unilateral termination of the arms embargo." No action beyond consultation was mentioned.

By contrast, the Dole-Lieberman proposal required the president to terminate U.S. participation in the embargo after receiving a request for help from the Bosnian government and banned any allied interference with the sale of arms to Bosnia.

Clinton, who has supported lifting the embargo but refused to do so without support of reluctant NATO allies, wrote senators urging rejection of Dole's proposal and approval of Mitchell's alternative.

Eight Democrats voted for both plans, some insisting there was nothing contradictory about the action.

Sen. Daniel Patrick Moynihan (D-N.Y.) said the votes assure that the United States will seek unilateral action and, if that fails, act on its own to end it. Sen. Charles S. Robb (D-Va.), who also voted for both proposals, said his chosen vote to "keep every possible avenue" to give Bosnian Muslims a chance to defend themselves.

In addition, Lieberman said he be[lieves] some Democrats supported [illegible] action but "didn't want to vote against the majority leader and to some extent, the administration."

Denying that he was attempting to embarrass Clinton or the White House, Dole said the two votes would strengthen the president's hand in pursuing airstrikes and an end to the embargo. "He could look at this as a big, big victory," Dole said.

Others saw it more as a victory for Sen. Joseph R. Biden Jr. (D-Del.), a senior member of the Foreign Relations Committee, described it as a "shot across the president's bow" that could also help him pursue his policies more effectively.

During debate, opponents of unilateral action argued that it would prompt [illegible] to end its shadow embargoes against the United States "to end support all over the world . . . where we have more vital interests," such as Bosnia, said Armed Services Committee Chairman Sam Nunn (D-Ga.).

Proponents read a letter from Bosnian Prime Minister Haris Silajdzic calling for U.S. help in arming against Serbian attacks and said the United States had a responsibility, abetted from its revolution, to help Bosnia help themselves.

But French Foreign Minister Alain Juppe, who met with Clinton and congressional leaders, told reporters that lifting the embargo would be "the worst solution . . . a kind of desperate solution. His comments reflected the views of most [illegible] European allies, especially Britain and France, which have a number of troops serving with U.N. peacekeeping forces in Bosnia and fear that any move by the West to help the Muslims would prompt Serb retaliation against those troops. "What will happen the day after?" Juppe asked. "If not the withdrawal of the [U.N. forces] on the ground, the end of humanitarian aid for the Bosnian population or the resumption of fighting. . . . Fourth, help called by by the Bosnian Muslims to other countries . . . that means more fighting, more misery, wounded people."

Staff writer John M. Goshko contributed to this report.

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Washington Times

WASHINGTON, D.C., THURSDAY, JUNE 2, 1994 ●●

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Iranians move into Bosnia to terrorize Serbs

Guards aim to radicalize Muslims

By B. J. Gertz
THE WASHINGTON TIMES

Up to 400 Iranian Revolutionary Guards have been sent to Bosnia to organize terrorist groups among Muslims in the region, according to U.S. intelligence sources.

Most of the Guards arrived in early May along with shipments of arms and explosives.

The Guards have begun organizing groups of Bosnian Muslims loyal to Iran and its brand of fundamentalist Islam, according to intelligence passed from a Western European intelligence service to U.S. spy agencies.

The Guards' activities are being organized out of the Iranian Embassy in Zagreb, Croatia.

The Bosnian Muslim terrorist groups would conduct operations against Serbs. They also would be used as a means of subversion in other parts of Europe, according to one intelligence report based on official Iranian sources.

According to the report, Iran's main goal in Bosnia is to organize groups similar to its main terrorist surrogate, Hezbollah (Party of God), which has carried out numerous attacks in Lebanon and claimed responsibility for the 1992 explosion that blew up the Israeli Embassy in Buenos Aires.

"The Iranians see this as a way to get at the soft underbelly of Europe," said one U.S. official.

The official, speaking on the condition of anonymity, said a major problem for the Iranians is that most Bosnian Muslims are not fervent believers and would be difficult to organize under the banner of militant Islam.

The Revolutionary Guards, the ideological and military standard-bearers of Iranian [illegible]

mentalism, will attempt to radicalize the Bosnian Muslims, the official said.

A secondary objective will be to set up networks of pro-Iranian groups in Bosnia and other parts of the former Yugoslavia that can assist Tehran in breaking what [illegible] U.S.-imposed embargo of Iran.

The presence of the Revolutionary Guards has heightened concerns among Western governments about growing Iranian influence in the war-torn former Yugoslavia.

The pro-Iranian groups will provide a method in Europe that can be used by Tehran to acquire through Bosnia and Croatia goods it has been unable to purchase directly from Western Europe, the report says.

Between 350 and 400 members of the Iranian Revolutionary Guard Corps are now in Bosnia, according to an intelligence report circulated recently among senior Pentagon officials. The corps, a special military unit, has trained other Muslim militants in the Middle East and North Africa.

U.S. intelligence agencies also have detected small numbers of fighters from Egypt, Saudi Arabia and Syria in Bosnia.

The Saudi government has supplied several hundred million dollars' worth of arms to the Bosnian Muslims, U.S. officials said.

The activities of the Iranian Revolutionary Guards in Bosnia could complicate efforts to reach a peace settlement between Bosnian Serbs and Muslims.

Low-level fighting in Bosnia is continuing, and U.S. intelligence officials said the prospect

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IRAN

From page A1

...ran being a wide ranging issue ...ere among the warring factions ... close fighting is expected to ... sooner through the summer.

A State Department official said Iranian and Serb representatives ... about Iranian reconnaissance ... sporting on Bosnia have appeared recently. "We believe most Muslims ... Bosnia are not interested in Iranian style extremism," this official said. "But we are watching the situation carefully."

Kenneth Katzman, a Middle East specialist with the Congressional Research Service, said the U.S. intercepted Iranian messages last year that some Iranian Revolutionary Guards were in Bosnia.

But the dispatch of several hundred Guards would fit a pattern used by Iran in other parts of the world and coincides with fresh reports of Iranian weapons shipments to Bosnia through Croatia.

A shipment of about 40 tons of small arms and explosives arrived in Zagreb on May 6 on an Iranian Air Force Boeing 747 transport, and the weapons were then sent by truck and by helicopter to Bosnia, U.S. officials said. The shipment, which followed a U.N. arms embargo on Bosnia, was the first of what is expected to be several arms transfers from Iran.

Mr. Katzman, author of a book on Iran's Revolutionary Guards, said that the Guards have been successful in organizing pro-Iranian groups in Lebanon and Sudan and that a lack of religious fervor is not an obstacle.

"The Serbs have to be that fervent," Mr. Katzman said. "The Croats sought by the Guards. "The Guards are like a virus – they get into a country and replicate themselves, leaving a militia behind."

Mr. Katzman said the dispatch of the Guards appears to be a buildup of Iranian militants rather than their first appearance.

The presence of Revolutionary Guards "reinforces a lot of concerns among Western governments that don't want to see an Islamic government implanted in Europe that would act as a surrogate for Iran," he said. "This is one of those post-influence things."

While Western governments, including the United States, debate whether to lift the arms embargo on strife-torn Bosnia, there the Iranians are going in and doing it. It's disturbing," Mr. Katzman said.

The Senate passed contradictory resolutions last month on whether to lift the U.N. arms embargo, first voting to seek allied support for ending the ban, and then approving a measure that calls for unilateral lifting of the embargo by the United States.

The State Department, in its annual report on global terrorism, said Iran remained the most active state sponsor of terror. The Tehran government has been linked to terrorist attacks in Italy, Turkey and Pakistan, including assassinations of dissident Iranians.

Iran boots out British diplomat

LONDON (Reuters) – Britain said yesterday that Iran had ordered one of six diplomats to leave Tehran in retaliation for the expulsion of an Iranian envoy accused of masterminding the forgery of British documents.

A Foreign Office spokesman said the deputy head of mission in Tehran, Hannah Cowell, had been asked to leave. The spokesman said it was an "entirely unjustified Iranian reaction."

He confirmed newspaper reports that Britain had asked Iran to withdraw its first secretary, Wyndham Ellis, last week.

"This was because members of the Iranian Embassy had been involved in attempting to distribute forged documents purporting to show that Britain's policy in Bosnia was directed against the Muslims," the spokesman said.

The Foreign Office later re-

leased copies of two documents it said were forged by the Iranian intelligence services. One was a letter purportedly from Foreign Secretary Douglas Hurd to Defense Secretary Malcolm Rifkind.

The letter, on Foreign Office paper, says, "Some other European countries disagree with our policies to help the Serbs."

Official sources said messages circulate through ministers' control of formal letters and that Mr. Hurd normally would sign himself "Douglas" rather than "Douglas Hurd."

An official said the words "Yours sincerely" were taken from a phrase by Prime Minister John Major's writing.

The other document was an attack on British policy by "a spokesman in the Foreign and Commonwealth office."

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T-STORMS

The Washington Ti

WASHINGTON, D.C., FRIDAY, JUNE 24, 1994 . . .

Iranian weapons sent via Croatia

Aid to Muslims gets U.S. 'wink'

By B. Gertz

Croatia has become a major transit point for covert Iranian arms shipments to Bosnia with the tacit approval of the Clinton administration, which publicly remains opposed to a unilateral lifting of the international arms embargo against the fractured Balkan states according to intelligence sources

Disclosure of Iranian arms shipments through Croatia comes as representatives of four NATO governments warned the Senate yesterday that Congress lifting of an arms embargo against Bosnia unilaterally would have dire consequences

A senior U.S. official said last night the U.S. government opposes the Iranian arms shipments because they undercut U.N. sanctions "There is no U.S. support for what Iran is doing," the official said

But intelligence sources said the U.S. government, which closely monitors Iran and in the past has halted a shipment of arms to Bosnia in September, has not protested Iran's transshipment of arms to Bosnia through Croatia that have increased dramatically since March.

The lack of protests caused the Croatians to assume the administration has "winked" at the arms shipments, one source said.

According to intelligence reports circulating to senior policymakers in the administration, Croatia's government is expanding ties to Iran following the agreement in Washington last March to form a Croatian-Bosnian federation.

As part of the growing ties, Croatia is now a conduit for Iran's arms shipments to Bosnian Muslims, battling Serbs in a bloody, 26-month-old civil war. The arms shipments violate the international embargo

A Pentagon official familiar with the report said the CIA and Pentagon intelligence agencies have detected regular shipments of small arms and explosives being flown into Zagreb, the Croatian capital, from Iran on Boeing 747 transports.

Other shipments have been detected arriving at the port of Split, on Croatia's Adriatic coast. The weapons are then moved by truck

see CROATIA, page A13

CROATIA

From page A1

to Bosnian Muslim forces

Iran also has supplied between 350 and 400 Revolutionary Guards that Tehran has ordered to help form terrorist groups similar to the terrorist group Hezbollah in Lebanon. Iran's government has denied sending the paramilitary forces

Pentagon officials are concerned the Iranian arms, while helping Muslims defend themselves, complicate peace efforts which appear to be foundering due to widespread violations of a June 10 truce agreement

According to the intelligence sources the Croatian government is divided over allowing Iran to ferry arms to the Bosnian Muslims. Foreign ministry officials are distrustful of the growing ties to Iran, while the prime minister's defense ministry officials favor closer trade ties with Tehran

Croatia's foreign minister believes the Iranian weapons shipments have the tacit support of the Clinton administration, which has said it favors lifting the arms embargo if Western allies go along, according to the sources

Croatian defense officials support the Iranian arms shipments because a large portion of each arms shipment remains in Croatia, [illegible] for the Croatian military

Croatia was receiving [illegible] from Iran via the Adriatic port as a way to build up Croatia's armed forces and reduce a trade deficit with Iran estimated at more than $200 million

Kenneth Katzman, a specialist on Iran with the Congressional Research Service, said Iran "has offered to send 10,000 troops to Bosnia as part of a U.N. force, but the world body does not want them there

"Then Iran wants to see an influx of Islamic fundamentalism there," Mr. Katzman said in an interview

Any Iranian force would be made up of Revolutionary Guards, the radical Muslim forces that have established militias and terrorist groups in the Middle East and North Africa, Mr. Katzman said.

On Capitol Hill, defense officials from Britain, France, Spain and Denmark testified before the Senate Armed Services Committee yesterday, then a unilateral [illegible] of the arms embargo against Bosnia by the United States would undermine the conflict

"We believe that the lifting of the arms embargo would have the effect of pouring gasoline on fire and mean an all-out war," said Danish Undersecretary for Defense Anders Ostberg

Mr. Ostberg appeared along with Jean-Claude Mallet, director of strategic policy at the French Defense Ministry, Gen. Juan Manuel Eguaras, deputy undersecretary at the Spanish Defense Ministry, and Maj. Gen. Rupert Smith, director of strategic policy at the British Defense Ministry.

The House recently voted in favor of a unilateral lifting of the arms embargo, and the Senate is expected to debate a similar measure this week

Two other measures passed in the Senate last month. One ordered Mr. Clinton to lift the embargo unilaterally and the second ordered that he seek allied and U.N. agreement before doing so

Senate Minority Leader Bob Dole, Kansas Republican, plans to introduce an amendment to the fiscal 1995 defense authorization bill, now being debated, that would direct the United States to lift the embargo unilaterally

Opponents of the measure could again muster the action with a separate measure that would require obtaining allied support before lifting the ban.

Allied defense officials said lifting the arms ban would force the withdrawal of U.N. troops in Bosnia as a result of humanitarian aid, and prompt more and more aggressive attacks by Bosnian Serbs

If the United States acts alone in lifting the embargo, U.N. efforts to maintain troops in the country would be "difficult if not impossible," and would undermine current peace efforts, Gen. Smith said.

Mr. Mallet, the French defense official, said the United States would be placing itself above international law and would contribute to "international disorder in the post-Cold War world."

This would probably mean the end of the game of the U.N. Security Council as the international context," Mr. Mallet said. "The future of European security is in many ways at stake."

State Department spokesman Mike McCurry said the administration shares the concerns of the four nations, who have troops on the ground in Bosnia.

Meanwhile, leaders of the United States, Russia and Europe are expected to endorse a peace plan dividing up Bosnia at an economic summit meeting next month, a senior administration official said.

The plan calls for giving Muslims and Croats 51 percent of Bosnian territory while Bosnian Serbs would get 49 percent. The Serbs currently control about 72 percent of Bosnia.

The Bosnian government has reacted negatively to the plan and will eventually resort to military action to obtain more territory by force rather than through negotiations, U.S. officials said.

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The Washington Times
WASHINGTON, D.C., TUESDAY, AUGUST 2, 1994 ◦◦ 25 cents
WASHINGTON TIMES 8/2/94 p.A14

Iran uses Russian planes to supply Bosnian Muslim, Croatian troops

30 shipments of arms delivered despite U.N. embargo

By Paul Beaver

Since May, at least 30 shipments of Iranian-financed weapons have been flown to Muslim Bosnian and Croatian troops on Russian cargo planes in violation of the U.N. arms embargo.

Il-76 transports from Elf Air — which is based in Moscow at the formerly top-secret Zhukovski Design Bureau airfield — have been landing at Krk airport in Croatia with cargoes of 40 tons each.

"We are being paid by the Iranian government. We don't think there can be any objection to our carrying munitions from one government to another," the manager of Elf Air told a London Sunday Express reporter.

Eyewitnesses also report light planes operating on strips of highway near Zenica, with shipments of such weaponry as Tigercat launchers and Blowpipe air-defense weapons.

Besides the Iranian air supply route, arms are traveling a torturous land path through Albania, Kosovo and Sandjak into Bosnia-Hersegovina, across Serbian army lines and to the Muslim and Croatian forces in central Bosnia.

As the shipments enter hostile territory, various warlords have been levying "certain taxes," consisting [illegible] rise of the materiel or, most frequently, hard cash.

> *"We are being paid by the Iranian government. We don't think there can be any objection to our carrying munitions from one government to another."*

U.N. sources say they are particularly worried about arms crossing the borders shared by Italy and Slovenia and Hungary and Croatia.

In these areas, some rival warlords trade their "fees" of small arms, mortars and portable surface-to-air missiles and later use the weapons to shoot at one another.

Despite the presence of joint NATO and Western European Union naval forces in the Adriatic Sea, illicit arms shipments are also moving frequently into Split and other ports along the Dalmatian coast.

One Egyptian freighter detained earlier this year in Crete was carrying a variety of equipment including armored personnel carriers for Bosnian government troops.

In some cases, light armaments are shifted onto small fishing boats, which then upload along the Croatian coast. From there they are moved by land, with Croatian warlords levying a protection fee of about 30 percent of the value.

Among the weapons illegally exported into the country for recent use in the Bosnian war:

- Red Arrow 8s, the People's Liberation Army of China's latest wire-guided missiles, for Muslim-dominated Bosnian government forces.
- RPG-22 anti-tank rockets made in Russia, for Croatian and Muslim troops.
- Mi-8 and Mi-17M combat helicopters made by Russia's Kazan Helicopters, for Croatia's air force and the Muslim air wing.
- German-designed Armburst antitank rockets, imported from Singapore, for use in Croatian army lines.
- MIG-21b and MIG-21U two-seat trainer jets made in former East Germany, for Croatian crews near Zagreb.

As pressure to lift the U.N. arms embargo against the Bosnian government grow[s] Europe and the United State[s] former Yugoslav domestic [illegible] industry has been trying to boost its production capacity.

Since early this year, the UTVA factory at Pancevo, near Belgrade, has managed depot maintenance of Orao strike aircraft and G-4 Super Galeb strike planes.

A new remote-piloted vehicle, which resembles the U.S. Air Force's Sky Owl, is being tested periodically along the Yugoslav-Bosnian border.

Zastava, a small-arms-design plant in Western Serbia, has developed a new line of infantry weapons, including the AK-47 AKSU. It has also built a new triple 12.7mm weapon, an assault shotgun, a 30mm grenade launcher and a long range [illegible]

Tank components and a tracked armored fighting vehicle chassis are in production at an old railway locomotive factory in an undisclosed spot around Belgrade.

Recent articles in Novi Glasnik, the Yugoslav armed forces magazine, say two or three locally produced Kotor light frigates, several missile-strike craft and up to three submarines will be sold to the Yugoslav navy.

Also widely trumpeted in the local press is a home-grown version of the SS-1 Scud missile.

But this is like[ly] to be mere propaganda, Western [illegible] say, a sign of the will [illegible]

BUSTING THE U.N. SANCTIONS

Arms transfers: April 1992 to April 1994

	Amounts in millions of dollars shipped to		
Country of origin	Serbia	Croatia	Bosnia
Former USSR	$360	$50	$20
Poland	?	1	0
Switzerland	0	90	?
Italy	0	2	1
Austria	0	61	?
Germany	0	320	0
Turkey	?	10	0
Lebanon	0	2	10
Egypt	0	2	?
South Africa	0	10	0
China	10	25	15
Singapore	0	20	?
Iran	0	5	20
Slovakia	100	60	10
Saudi Arabia	0	0	35
North Korea	2	2	0
Total	$476	$660	$161

Note: The above estimates in millions of U.S. dollars reflect 1992 prices. The countries of origin listed here have not officially sanctioned the export of weapons to former Yugoslavia in violation of the U.N. embargo.
Source: Media reports, eye-witness reports and interviews with senior personnel and members

The Washington Times

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The SUNDAY Times
The Washington Times

Bosnians sought help from Iran

By Bill Gertz
THE WASHINGTON TIMES

Bosnia's government last month secretly asked Iran for arms and night-vision equipment, as well as guerrilla warfare specialists, to prepare for a major offensive against the town of Gorazde, according to Pentagon intelligence sources.

The Bosnian army has nearly completed a buildup of 200,000 troops and asked the Iranian government, through its embassy in Zagreb, Croatia, to provide the military support as part of the next weapons shipment from Iran, according to the sources.

The request, made in late August, asked the Iranians to supply enough weapons, including rifles, grenades, rocket-propelled grenades and night-vision equipment, for 1,000 Bosnian Muslim troops.

Along with the arms request,

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BOSNIA

From page A1

the Bosnians asked Tehran to provide specialists in mountain and guerrilla warfare who can train the Bosnians for an offensive against Gorazde.

It is not known when the Bosnian Muslim offensive against Gorazde will begin.

Located south of Sarajevo, the town has been under Serbian siege since April, when the threat of NATO air strikes prompted the Serbs to agree to remove heavy weapons outside a 12.5-mile exclusion zone around Gorazde.

Since then, there have been numerous Bosnian Serb violations of the exclusion zone — including the discovery of weapons depots inside the zone, and artillery and cannon shelling of the town.

The intelligence reports provide further evidence of growing Iranian backing for the Bosnian Muslims, who have been fighting Bosnian Serbs in a civil war for the past 28 months.

Intelligence analysts said Bosnia has made great strides recently in improving its forces' technical proficiency by obtaining arms and artillery.

One official said Iran's continuing shipments of arms — as many as 40 since April — mean the Bosnian government does not have to take the political and military steps needed to have the arms embargo lifted, a move that would involve a pre-emptive attack by Bosnian Serbs.

Bosnian President Alija Izetbegovic has said recently that lifting the embargo is not necessary because of his country's successful military buildup.

Congress is set to begin the process of lifting the arms ban for the Muslims on Oct. 15 if the peace plan now being worked out among the warring factions fails.

CIA and Pentagon intelligence agencies have detected regular shipments of small arms and other weapons flown from Iran into Zagreb on Boeing 747 transports and an Soviet-made Il-76s owned by a Moscow-based charter transport service known as Elf Air.

Officials have said the weapons originated at sites including Iran, Iraq and Lebanon, and that circuitous delivery routes have been used to avoid tracking by Western intelligence agencies.

Still, the shipments have been followed from the Middle East, through Malaysia and Turkey, and into Croatia.

A U.S. spy satellite this summer photographed an Elf Air arms delivery on an airport runway at Rijeka, Croatia.

Croatia has become a major transshipment point for Iranian arms, and a large percentage of the weapons are skimmed off by the Croatians for their military forces.

The weapons also have arrived covertly by ship at the Croatian port of Split, on the Adriatic coast. The guns are then moved into Bosnia by truck, officials have said.

A senior NATO military officer, speaking on condition of anonymity, said NATO allies are very worried that lifting the arms embargo will lead to a sharp increase in Iranian support and the possible spread of Iranian activities in Europe.

"Part of the concern about lifting the arms embargo is what happens when you start seeing all that," the officer said. "We have to think all that through."

The officer said Serbian forces in Gorazde have a 60-to-1 advantage in the numbers of tanks and artillery compared with Bosnian Muslim forces.

"The infantry, on the other hand, in fighting in those mountains and in bad weather belongs to the Muslims," the officer said.

The Bosnian Muslims have launched numerous ground attacks using special tactics that have given them advantages over the better-armed Serbs, the officer said. "They have shown a great ability to move on the ground, to move at night. Very innovative."

The officer said the tactics do not reflect Russian or Iranian training, but appear to have been developed by the Bosnian Muslims themselves.

Should the embargo be lifted, U.S. officials expect an influx of arms from Iran, and it is not clear that the weapons would help the Muslims, a key argument of opponents who favor lifting the ban.

The Iranian government has denied sending Revolutionary Guards to Bosnia.

As for the Bosnian Serb military, "it's a well-armed force and if they wanted to put together a combined arms attack, it would be a success," the officer said.

In May, intelligence reports indicated that Tehran was seeking to set up small groups of pro-Iranian Muslims and that up to 600 Iranian Revolutionary Guards, the fundamentalist-Islamic paramilitary forces, are in Bosnia to organize them into terrorist like cells.

The Iranians' aim is to support Bosnia's Muslims and get a toehold in Europe as a way of circumventing the Western embargo against Iran.

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NEW YORK TIMES INTERNATIONAL THURSDAY, SEPTEMBER 10, 1992

2 A 10

IRAN SAID TO SEND ARMS TO BOSNIANS

Plane Intercepted in Croatia Is Reported to Hold War Matériel and Men

By MICHAEL R. GORDON
Special to The New York Times

WASHINGTON Sept 9 — In the first documented evidence of military support by an Islamic country to the Muslim-dominated Government of Bosnia and Herzegovina, Croatian officials have intercepted a planeload of Iranian arms and personnel, Western officials said today.

The officials said that according to reports from the region, an Iranian Boeing 747 flew to Zagreb, the Croatian capital, on Friday. Its assessible mission was to deliver relief supplies for overland delivery to Bosnia and Herzegovina. But when the plane was inspected, Croatian officials discovered 4,000 guns, more than a million rounds of ammunition and 20 to 40 Iranians huddled in the back.

The Croatian authorities were said to have seized the war matériel and sent the Iranians home. The Croats have not publicly acknowledged the episode, but plan to officially notify the United Nations soon, American officials said.

While there have been unconfirmed reports that Islamic countries have been providing military aid to the Bosnian Muslims, the seizure of the Iranian shipment represents the first tangible evidence Bush Administration officials say.

Muslim Nations Unhappy

The governments of Muslim countries have expressed deep unhappiness about the inability of Western Europe and the United States to bring an end to the Balkan fighting, in which the heavily outgunned Bosnian Government has lost most of its territory, mainly to Serbian forces.

Although the United Nations has imposed an arms embargo on the Balkans, American experts say all factions there have benefited from arms smuggling. But the smuggling of weapons is all the more important for the Muslims in Bosnia than it is for the Bosnian Serbs, who have been amply supplied from the arsenals of the Yugoslav armed forces.

According to classified American intelligence reports, the Serbian forces in Bosnia have 300 tanks and the Bosnian Muslims just 2. The Serbian forces have 200 armored personnel carriers and the Muslims 3. The Serbian forces have 400 to 600 artillery pieces to two dozen in the hands of the Muslims.

The Senate has approved a resolution urging the Administration to reconsider its arms embargo because, it says, the Serbs an advantage. Some Administration officials privately question the embargo.

Deprived of weapons from other sources, the Bosnian Muslims have readily accepted whatever arms can be smuggled in.

Find Embargo Muslims Tab

Bosnian Muslims are among the most secularized Muslims in the world and are thought to be especially vulnerable to the radical fundamentalism found in some segments of Iran and Iraq. But the Administration officials say that their fight in Bosnia is a defense against Islamic expansionism, and the incident could prompt Western concern about the growth of Islamic influence in the heart of Europe.

Officials of Iran and of the secular Government of Turkey have called for an end to the arms embargo, which was imposed by the United Nations last year in a vain effort to put an end to the fighting. Later in August, the Secretary General of the 47-nation Islamic Conference called on the United Nations to consider the use of military force to end the fighting.

Western officials say there have been suspicions for several weeks that the Iranians were smuggling arms into the country aboard planes that landed in Zagreb, in part because the Iranians have been very protective of the aircraft after they landed. American officials said the United States Government had expressed its concerns to the Croats.

Finally Croatian officials announced on Sept. 2 the contents of an Iranian plane that flew into Zagreb on Friday and uncovered the weapons, which were listed as civilian material as destined for Sarajevo. The Croats have put the weapons in storage for the time being.

The Bush Administration is perplexed and the Iranian denial game is bound to complicate its decision whether the Iranians are trying to spread anti-Muslim fundamentalism in the fighting, advise the Bosnians in using the weapons or do not like the alternatives.

Serbian residents of villages near Gorazde, Bosnia and Herzegovina, fleeing after being forced from their homes by Bosnian troops. Western officials said that the seizure of an arms shipment from Iran is the first evidence that Islamic countries are providing military assistance to Bosnian Muslims.

arms. The Croatians were on the basis of the official said. They saw it for what it was and stopped it.

But some experts said the Croatians may have seized the Iranian arms to earn good will in Washington and because American intelligence had already become suspicious that the Iranians were flying arms to Zagreb. Officials said that there have been intelligence reports of earlier cases in which arms were shipped through Croatia in violation of the embargo.

Croats control a large part of Bosnia and Herzegovina and favor the establishment of self-governing cantons for each of the country's three main ethnic groups. The Bosnian Muslims say the plan amounts to a partition of their country. Over the weekend Croatian forces in Bosnia broke with the Muslim Government there, ordering it to withdraw its soldiers from six suburbs around Sarajevo.

Iranian arms were smuggled into Zagreb on commercial flights they would have been transported overland to Sarajevo. Some Western officials have speculated that the Croats might have allowed these earlier shipments to go through in return for a portion of the weapons.

But Franjo Tudjman, the Croatian President, told the Croatian Army, said in a recent interview that the official position of the Government was not to permit any weapons to be shipped through Croatia to forces in Bosnia.

A special United Nations commission has been set up by the Security Council to monitor the sanctions, and American officials say that they have told that the Croats plan to formally notify the body of the impounding of the Iranian arms. The United Nations committee has received numerous reports of infractions, but the Iranian shipment would be one of the most significant.

The Bosnian Government has confirmed that their forces have received arms from the Middle East.

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Appendix G

FBIS REPORTS OF INCREASING TIES BETWEEN THE ORGANIZATION OF THE ISLAMIC CONFERENCE AND BOSNIA

8 May 1991
Izetbegovic concluded a visit to Iran where he strengthened economic ties between the two countries.

14 Mar. 1992
Izetbegovic praised Iran for its recognition of Bosnia-Herzegovina's independence. Iran also recognized the independence of Croatia and Slovenia.

16 June 1992
Muhamed Cengic, Bosnia's deputy prime minister, called on Islamic nations to help save Bosnia. Speaking from Istanbul, Cengic appealed to members of the OIC to make more effective efforts to stop the war. The OIC was scheduled to meet in Istanbul the following day.

5-6 Aug. 1992
Silajdzic meets with Iranian officials during his tour of Islamic countries. He pleaded with the Islamic conference to put a stop to the Serbian aggression in Bosnia.

10 Aug. 1992
Silajdzic praised the recommendation that an Islamic force led by Iran intervene in the war in Bosnia. While visiting Pakistan, Silajdzic also requested that the OIC attempt to deliver weapons for aerial defense and protection against Serb forces.

11 Sept. 1992
Silajdzic denied today that Islamic countries, especially Iran, were sending arms to his country. He reported that Bosnia was having all military aid channeled through the Security Council. Silajdzic noted that Bosnia was accepting financial aid and had so far received $13 million from Pakistan, an undisclosed amount from Saudi Arabia was to be delivered and arrangements were being made with Kuwait. Negotiations also being held about Iranian oil shipments

5 Nov. 1992
Izetbegovic granted an Iranian interview during the proclaimed "week in support of the oppressed people of Bosnia-Herzegovina" in Iran. Izetbegovic thanked Iran for its support and hoped that it would continue.

14 Nov. 1992
Hojjat ol-Eslam Mahmud Mohammadi Eraqi visited several Bosnian cities and implored Iranians to send aid. Several instances are cited of people demonstrating their Iranian heritage and devotion to Iran and its principles. Eraqi reports that although there are food and water shortages, the Bosnian Muslims "only demand weapons and military assistance from the Islamic countries."

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28 Dec. 1992
Izetbegovic held an interview with a group of journalists from the Persian daily JOMHURIYE ESLAMI. The group traveled to Sarajevo. During the interview, Izetbegovic declared Iran to be Bosnia's "greatest friend in the world." OIC ministers are quoted as threatening to lift the embargo by 1/15/93 if the Serbs did not agree to a cease fire. (The meeting was held in Jeddah earlier in the month.)

3 May 1993
IRNA
In a meeting with Iran's ambassador to Greece, Qasem Moheb'Ali, Izetbegovic thanked Iran for its support. The two met after signing the U.N. peace plan in the Astir Palace Hotel. Izetbegovic expressed his hope that at the end of hostilities, Iran and Bosnia could enter into prosperous economic relations. During an OIC meeting in Karachi earlier in the week, Iran pledged $20 million in aid to the Bosnian Muslims.

28 Dec. 1993
Tehran Voice of the Islamic Republic of Iran
Izetbegovic conducted an interview with an Iranian journalist. He thanked Iran for its leadership role in supporting the Bosnian Muslims and noted that because of such support, the Bosnian Muslims were able to find the strength to fight the Serbs.

17 April 1994
Bosnian President Izetbegovic sent a communique to Iran's president regarding the siege of Gorazde. In the communique, Izetbegovic implored the Iranians to "make every effort to defend the inhabitants of Gorazde and to prevent their destruction."

23 April 1994
Tehran IRNA
During an aside to the Cans-Montana meetings in Bucharest, Velayati pledged Iran's full support to the Bosnian Muslims to Silajdzic. In turn, Silajdzic spoke pessimistically about the role of "international circles" and thanked Iran for its support.

29 April 1994
Tehran Voice of Islamic Republic of Iran
Deputy Prime Minister Edib Bukvic arrived in Tehran today. According to Tehran, Bukvic thanked Iran for its support calling it Bosnia's "best friend and supporter in today's sorrowful crisis." Bukvic asked for the lifting of the arms embargo and noted that Bosnia will continue to rely on the aid and assistance from Iran.

30 April 1994
Tehran IRIB Television
Habibi met today with Croatian prime minister Valentic and Bosnian deputy prime minister Bukvic. Valentic criticized recent Serb aggression and "conveyed his country's willingness to engage in trilateral cooperation in various fields between Iran, Bosnia, and Croatia.

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Tehran Voice of the Islamic Republic of Iran
This account detailed Bukvic's visit in Iran and described the fact that despite the atrocities occurring in Bosnia, the country had few friends and among those, "there are not many who are ready to extend active support for the territorial integrity, independence, and survival of the oppressed Bosnian nation." "Iran reiterated its willingness to dispatch military assistance in order to prevent the Serbs from continuing their crimes of aggression." The piece concludes with a pledge for continued relations based on ideological Islamic tenet.

1 May 1994
Beijing Xinhua News Agency
According to Xinhua, Bosnia, Croatia and Iran signed a trilateral agreement to cooperate in the resolution of the Bosnia crisis. In a communique dispatched after the agreements were signed in Tehran, Nikica Valentic said that the trilateral negotiations concerned "resolving the Bosnian crisis and humanitarian aid."

7 May 1994
Sarajevo Radio
"For the first time since the beginning of the aggression against our country, a delegation of the Islamic Republic of Iran visited Sarajevo." Velayati's delegation was received by Izetbegovic. In a speech to reporters after the meeting, Izetbegovic said that the meeting would have occurred sooner had UNPROFOR permitted it and that the struggle for freedom would have been different and less successful without Iran's aid. Izetbegovic reported that a Bosnian delegation, including the defense minister, had recently visited Iran "and they made certain deals there."

8 May 1994
Tehran Voice of Islamic Republic of Iran
In an interview following his return from Sarajevo, Velayati said that "[e]xpansion of ties between Iran and Croatia will play a positive role to reduce the suffering of the Bosnian people" and he commended the federation agreement reached between Croatia and Bosnia.

23 May 1994
Ebrahim Rahimpur, Iran's Foreign Ministry special envoy called on Haris Silajdzic. Iran's ambassador to Bosnia, Muhammad Asayesh-Zarebi accompanied him. Rahimpur expressed Iran's willingness to continue providing humanitarian and political aid to the Bosnians. Rahimpur stressed that such aid was being provided out of friendship and not religion. Silajdzic said there is no need for concern as Bosnia was a sovereign nation and could chose with whom to deal on its own.

June 10, 1994
Ljubljanic arrived in Tehran today and met with Velayati. The two discussed the current situation in Bosnia and bilateral relations. Ljubljanic said his country was still encouraging the UN to allow Iranian and other Muslim troops into UNPROFOR.

June 11, 1994
Hashemi-Rafsanjani received Ljubljanic today in Tehran. Hashemi-Rafsanjani praised the

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Bosnian Muslims and Ljubljanic thanked the Republic of Iran for its humanitarian aid.

4 Aug. 1994
Tehran IRNA
Silajdzic met with Velayati at the OIC meeting in Geneva asking for more Islamic country involvement in the Balkan crisis. The meeting was an aside to the OIC contact group meeting. The situation in Bosnia was discussed and coordination among the contact group members. Also in attendance was FM Ljubljankic and Taherian.

11 Aug. 1994
Silajdzic received Iranian ambassador today and discussed the OIC plans developed at the Geneva meeting. Issues of joint importance, including humanitarian ___ were also discussed.

25 Aug. 1994
A delegation of Bosnians arrived in Iran. The delegation included Ljubijankic, Dr. Mirko Pejanovic, Dr. Enes Karic, Ibrahim Jusufvranic, and Mayor Tarik Kuposovic. Pejanovic met with the Deputy foreign Mi..ster emphasizing the need to include Iranian diplomacy in the talks with Russian and Greek diplomacies who are responsible for forcing the Serbs to accept the Contact Group plan; Karic met with Iranian Culture Minister Mirsalim and agreed to integration of each others countries cultural days into the calendar and curriculum.

28 Sept. 1994
Sarajevo Radio BH Network
Taherian was received by Ljubijankic today. They discussed economic development and the situation in BH, particularly in Sarajevo.

29 Sept. 1994
Tehran Voice of the Islamic Republic of Iran
Velayati met with Izetbegovic and the president of Azerbaijan today. Velayati reconfirmed Iran's willingness to place troops under the UN flag in BH.

3 Oct. 1994
Sarajevo Radio BH Network
Member of Presidency Stjepan Kljuic received Ibrahim Taherian, ambassador of Iran to BH. They discussed the role of UNPROFOR, the implementation of the federation on the ground, and the creation of conditions for the return of refugees and displaced people. Kljuic stated that BH believed it would be in the best interests of the country if Islamic and Latin American troops participated in UNPROFOR. Iran reiterated its willingness to commit troops to UNPROFOR, despite the possibility that British and French may pull out. Housing construction issues also were discussed and Iran stressed that it already procured buses and financial funding for the return of refugees.

30 Oct. 1994
Zagreb Radio Croatia Network
Croatian and BH Prime Ministers Nikica Valentic and Haris Silajdzic returned to Zagreb after a

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six day visit to Malaysia, Pakistan, and Iran. Croatian PM characterized the trip as favorable because it strengthened bilateral relations between C and BH and also with the visited countries. Concrete results reached included the participation of Croatian and Bosnian companies in Malaysia. Pakistani businesses held brief talks with the two and entrance into the market looked favorable. "One of the most important results of the trip was certainly our visit to Iran, where we held very comprehensive top-level talks." (Valentic) During this trip Croatia concluded a deal with Iran to build four ships worth $110 million in exchange for the same in crude oil. An additional four ships were in agreement stage. Valentic stated that "This first deal -- I have to say this openly -- has been concluded for the sake of good political relations between Croatia and Iran. Future deals must have greater commercial value."

16 Nov. 1994

According to Tehran IRNA, Bosnian FM Ljubljankic cabled Velayati on 11/16/94 calling for the "removal of all hurdles for dispatch of peacekeeping forces from Muslim countries, especially from Iran, to BH." He also called for Muslim countries to present a strong presence and take actions to solve the Balkan crisis.

29 Nov. 1994

Tehran IRIB Television

Because of the attacks on Bihac, Izetbegovic cabled Hashemi-Rafsanjani requesting that Iran increase international efforts to put an end to the violent aggression of Serb forces in BH. Hashemi-Rafsanjani then cabled the heads of state of France and Germany asking them to take new steps to thwart the Serb aggression.

5 Dec. 1994

A meeting in Geneva of the OIC is scheduled. Bosnian President Izetbegovic is scheduled to attend. Bosnia's ambassador to Geneva, Mustafa Bijedic, said that he would be accompanied by FM Lubjankic. PM Silajdzic also was to try to attend if he could leave Bosnia. The meeting was to be attended by the OIC contact group on Bosnia as well ministers from Morocco. According to FBIS (12/1/94), Turkey and Iran had been appealing "over the last several days to the five nation Contact Group on Bosnia (US, Britain, France, Germany, and Russia) to take action to aid the Bihac enclave.

NOTE: After this meeting, the OIC declared the arms embargo against Bosnian Muslims illegal and immoral.

6 Dec. 1994

According to FBIS (12/6/94), Croatian FM Mate Granic also attended the OIC meeting. Bangladesh, Jordan, and Tunisia also were represented at the meeting. At the meeting the OIC called for a breaking of all economic ties with rump Yugoslavia (Serbia-Montenegro) and rejected the European suggestions of easing sanctions against Belgrade.

NOTE: In the September 1994, the OIC met in Islamabad and called for the lifting of the arms embargo. Failing that, the OIC members said they "could provide the [Bosnian Muslims] with the necessary 'means of self-defense.'"

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7 Dec. 1994

According to a FBIS transcript of the Tehran Voice of the Islamic Republic of Iran: Foreign Affairs Minister 'Ali Akbar Velayati said "the situation in Bosnia and ways of preventing the Serb's aggression were studied." With regard to putting an end to Serb aggression, "We had positive discussions . . . and practical measures were taken, the effects of which will appear gradually." Velayati also commented that Iran proposed at the session that "Islamic countries should dispatch more peacekeeping forces to BH. These forces can replace those of the countries that have threatened to withdraw from Bosnia."

Velayati also held private talks with Izetbegovic in which "bilateral relations and ways of cooperation between the two countries were studied."

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